

TC

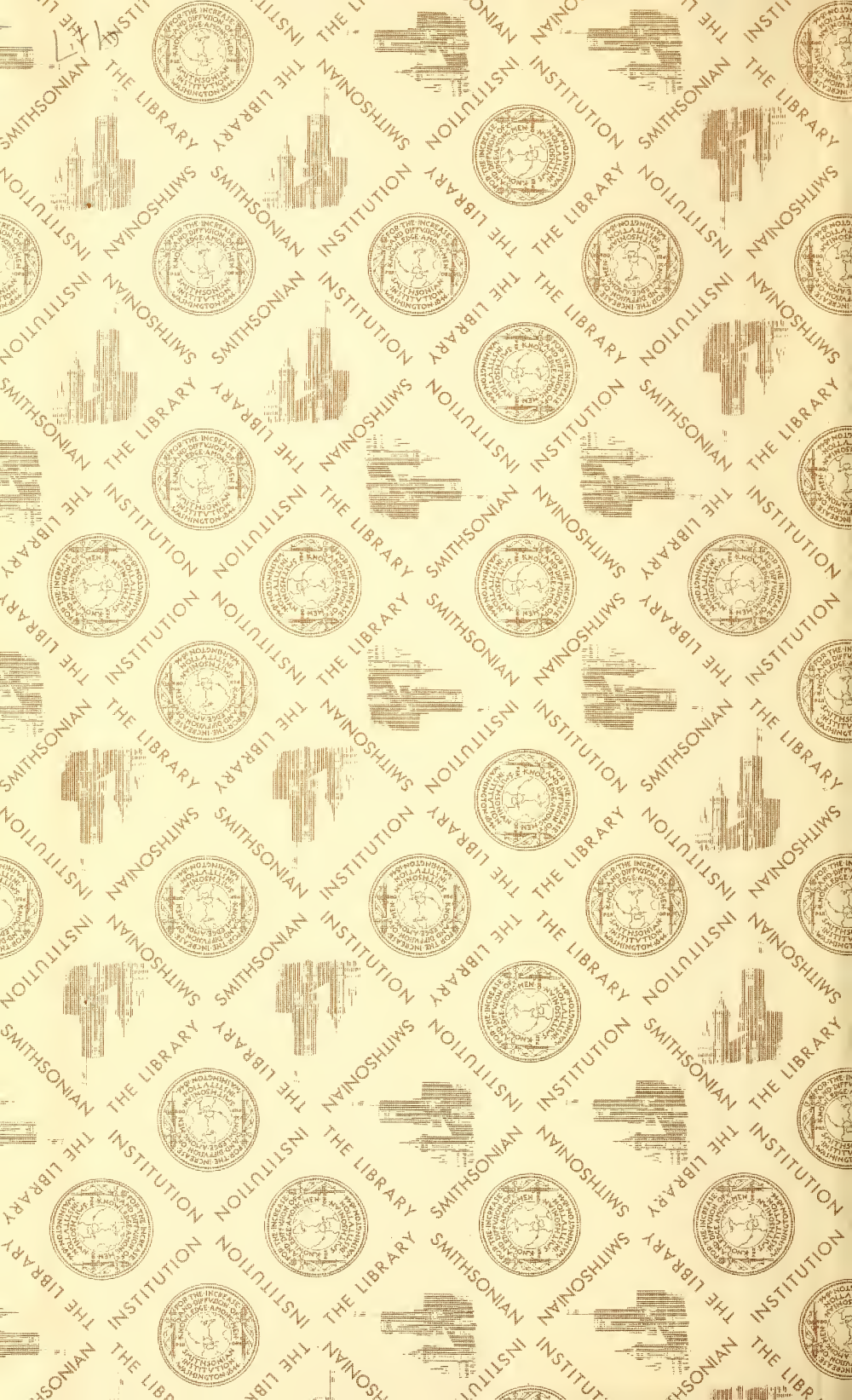
774

U6

1914BX

NMAH

SMITHSONIAN  
LIBRARY











*title entry*

# THE PANAMA CANAL

TC  
774  
76  
17146X  
NMIAH

## AND OUR RELATIONS WITH COLOMBIA

### PAPERS

RELATING TO

The acquisition of the Canal Zone, including an extract from the message of President Roosevelt, December 7, 1903, and the message relating to the Isthmian Canal, January 4, 1904; an address by the Hon. Elihu Root before the Union League Club, on the "Ethics of the Panama Question;" an editorial from The Outlook of October 7, 1911, on "How the United States Acquired the Right to Dig the Panama Canal;" the letter of Mr. Hay, Secretary of State, to Gen. Rafael Reyes, dated January 5, 1904, and an extract from the autobiography of Mr. Roosevelt



PRESENTED BY MR. LODGE

APRIL 23, 1914.—Ordered to be printed

LC ed 14-30346



## CONTENTS.

---

	Page.
Extract from Message of President Roosevelt of December 7, 1903.....	5
Message of President Roosevelt of January 4, 1904.....	13
The ethics of the Panama question, by Hon. Elihu Root.....	36
How the United States acquired the right to dig canal, by Theodore Roosevelt.	54
Extract from the autobiography of Theodore Roosevelt.....	61
Letter of Secretary Hayes to Gen. Reyes.....	63



# THE PANAMA CANAL AND OUR RELATIONS WITH COLOMBIA.

---

## MESSAGE OF PRESIDENT ROOSEVELT OF DECEMBER 7, 1903.

[Extract from the message of President Roosevelt, dated December 7, 1903.]

### ISTHMIAN CANAL.

By the act of June 28, 1902, the Congress authorized the President to enter into treaty with Colombia for the building of the canal across the Isthmus of Panama, it being provided that in the event of failure to secure such treaty after the lapse of a reasonable time, recourse should be had to building a canal through Nicaragua. It has not been necessary to consider this alternative, as I am enabled to lay before the Senate a treaty providing for the building of the canal across the Isthmus of Panama. This was the route which commended itself to the deliberate judgment of the Congress, and we can now acquire by treaty the right to construct the canal over this route. The question now, therefore, is not by which route the Isthmian Canal shall be built, for that question has been definitely and irrevocably decided. The question is simply whether or not we shall have an Isthmian Canal.

When the Congress directed that we should take the Panama route under treaty with Colombia, the essence of the condition, of course, referred not to the Government which controlled that route, but to the route itself; to the territory across which the route lay, not to the name which for the moment the territory bore on the map. The purpose of the law was to authorize the President to make a treaty with the power in actual control of the Isthmus of Panama. This purpose has been fulfilled.

### REVIEW OF RELATIONS OF UNITED STATES GOVERNMENT TO MATTER OF TRANSIT ACROSS ISTHMUS OF PANAMA.

In the year 1846 this Government entered into a treaty with New Granada, the predecessor upon the Isthmus of the Republic of Colombia and of the present Republic of Panama, by which treaty it was provided that the Government and citizens of the United States should always have free and open right of way or transit across the Isthmus of Panama by any modes of communication that might be constructed, while in return our Government guaranteed the perfect neutrality of the above-mentioned Isthmus with the view that the free transit from the one to the other sea might not be interrupted or embarrassed. The treaty vested in the United States a substantial property right carved out of the rights of sovereignty and property which New Granada then had and possessed over the said territory. The name of New Granada has passed away and its territory has been divided. Its successor, the Government of Colombia, has ceased to own any property in the Isthmus. A new Republic

that of Panama, which was at one time a sovereign State, and at another time a mere department of the successive confederations known as New Granada and Colombia, has now succeeded to the rights which first one and then the other formerly exercised over the Isthmus. But as long as the Isthmus endures, the mere geographical fact of its existence, and the peculiar interest therein which is required by our position, perpetuate the solemn contract which binds the holders of the territory to respect our right to freedom of transit across it, and binds us in return to safeguard for the Isthmus and the world the exercise of that inestimable privilege. The true interpretation of the obligations upon which the United States entered in this treaty of 1846 has been given repeatedly in the utterances of Presidents and Secretaries of State. Secretary Cass in 1858 officially stated the position of this Government as follows:

The progress of events has rendered the interoceanic route across the narrow portion of Central America vastly important to the commercial world, and especially to the United States, whose possessions extend along the Atlantic and Pacific coasts, and demand the speediest and easiest modes of communication. While the rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of eastern isolation, to close the gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust relations as would prevent their general use.

Seven years later, in 1865, Mr. Seward in different communications took the following position:

The United States have taken and will take no interest in any question of internal revolution in the State of Panama, or any State of the United States of Colombia, but will maintain a perfect neutrality in connection with such domestic altercations. The United States will, nevertheless, hold themselves ready to protect the transit trade across the Isthmus against invasion of either domestic or foreign disturbers of the peace of the State of Panama. \* \* \* Neither the text nor the spirit of the stipulation in that article by which the United States engages to preserve the neutrality of the Isthmus of Panama, imposes an obligation on this Government to comply with the requisition [of the President of the United States of Colombia for a force to protect the Isthmus of Panama from a body of insurgents of that country]. The purpose of the stipulation was to guarantee the Isthmus against seizure or invasion by a foreign power only.

Attorney General Speed, under date of November 7, 1865, advised Secretary Seward as follows:

From this treaty it can not be supposed that New Granada invited the United States to become a party to the intestine troubles of that Government, nor did the United States become bound to take sides in the domestic broils of New Granada. The United States did guarantee New Granada in the sovereignty and property over the territory. This was as against other and foreign governments.

For 400 years, ever since shortly after the discovery of this hemisphere, the canal across the Isthmus has been planned. For two score years it has been worked at. When made it is to last for the ages. It is to alter the geography of a continent and the trade routes of the world. We have shown by every treaty we have negotiated or attempted to negotiate with the peoples in control of the Isthmus and with foreign nations in reference thereto our consistent good faith in observing our obligations; on the one hand to the peoples of the Isthmus, and on the other hand to the civilized world, whose

commercial rights we are safeguarding and guaranteeing by our action. We have done our duty to others in letter and in spirit, and we have shown the utmost forbearance in exacting our own rights.

#### REPUDIATION OF TREATY BY COLOMBIA.

Last spring, under the act above referred to, a treaty concluded between the representatives of the Republic of Colombia and of our Government was ratified by the Senate. This treaty was entered into at the urgent solicitation of the people of Colombia and after a body of experts appointed by our Government especially to go into the matter of the routes across the Isthmus had pronounced unanimously in favor of the Panama route. In drawing up this treaty every concession was made to the people and to the Government of Colombia. We were more than just in dealing with them. Our generosity was such as to make it a serious question whether we had not gone too far in their interest at the expense of our own; for in our scrupulous desire to pay all possible heed, not merely to the real, but even to the fancied rights of our weaker neighbor, who already owed so much to our protection and forbearance, we yielded in all possible ways to her desires in drawing up the treaty. Nevertheless the Government of Colombia not merely repudiated the treaty, but repudiated it in such manner as to make it evident by the time the Colombian Congress adjourned that not the scantiest hope remained of ever getting a satisfactory treaty from them. The Government of Colombia made the treaty, and yet when the Colombian Congress was called to ratify it the vote against ratification was unanimous. It does not appear that the Government made any real effort to secure ratification.

#### REVOLUTION IN PANAMA—COURSE OF UNITED STATES.

Immediately after the adjournment of the Congress a revolution broke out in Panama. The people of Panama had long been discontented with the Republic of Colombia, and they had been kept quiet only by the prospect of the conclusion of the treaty, which was to them a matter of vital concern. When it became evident that the treaty was hopelessly lost, the people of Panama rose literally as one man. Not a shot was fired by a single man on the Isthmus in the interest of the Colombian Government. Not a life was lost in the accomplishment of the revolution. The Colombian troops stationed on the Isthmus, who had long been unpaid, made common cause with the people of Panama, and with astonishing unanimity the new Republic was started. The duty of the United States in the premises was clear. In strict accordance with the principles laid down by Secretaries Cass and Seward in the official documents above quoted, the United States gave notice that it would permit the landing of no expeditionary force, the arrival of which would mean chaos and destruction along the line of the railroad and of the proposed canal, and an interruption of transit as an inevitable consequence. The *de facto* Government of Panama was recognized in the following telegram to Mr. Ehrman:

The people of Panama have, by apparently unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence. When you are satisfied that a *de facto* government, republican in form and

without substantial opposition from its own people, has been established in the State of Panama, you will enter into relations with it as the responsible government of the territory and look to it for all due action to protect the persons and property of citizens of the United States and to keep open the isthmian transit, in accordance with the obligations of existing treaties governing the relations of the United States to that territory.

The Government of Colombia was notified of our action by the following telegram to Mr. Beaupré:

The people of Panama having, by an apparently unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence, and having adopted a Government of their own, republican in form, with which the Government of the United States of America has entered into relations, the President of the United States, in accordance with the ties of friendship which have so long and so happily existed between the respective nations, most earnestly commends to the Governments of Colombia and of Panama the peaceful and equitable settlement of all questions at issue between them. He holds that he is bound not merely by treaty obligations, but by the interests of civilization, to see that the peaceful traffic of the world across the Isthmus of Panama shall not longer be disturbed by a constant succession of unnecessary and wasteful civil wars.

#### DISTURBANCES ON ISTHMUS SINCE 1846.

When these events happened 57 years had elapsed since the United States had entered into its treaty with New Granada. During that time the Governments of New Granada and of its successor, Colombia, have been in a constant state of flux. The following is a partial list of the disturbances on the Isthmus of Panama during the period in question as reported to us by our consuls. It is not possible to give a complete list, and some of the reports that speak of "revolutions" must mean unsuccessful revolutions:

May 22, 1850.—Outbreak; two Americans killed. War vessel demanded to quell outbreak.

October, 1850.—Revolutionary plot to bring about independence on the Isthmus.

July 22, 1851.—Revolution in four southern provinces.

November 14, 1851.—Outbreak at Chagres. Man-of-war requested for Chagres.

June 27, 1853.—Insurrection at Bogota and consequent disturbance on Isthmus. War vessel demanded.

May 23, 1854.—Political disturbances; war vessel requested.

June 28, 1854.—Attempted revolution.

October 24, 1854.—Independence of Isthmus demanded by provincial legislature.

April, 1856.—Riot, and massacre of Americans.

May 4, 1856.—Riot.

May 18, 1856.—Riot.

June 3, 1856.—Riot.

October 2, 1856.—Conflict between two native parties. United States forces landed.

December 18, 1858.—Attempted secession of Panama.

April, 1859.—Riots.

September, 1860.—Outbreak.

October 4, 1860.—Landing of United States forces in consequence.

May 23, 1861.—Intervention of the United States forces required by intendente.

October 2, 1861.—Insurrection and civil war.

April 4, 1862.—Measures to prevent rebels crossing Isthmus.

June 13, 1862.—Mosquera's troops refused admittance to Panama.

March, 1865.—Revolution, and United States troops landed.

August, 1865.—Riots; unsuccessful attempt to invade Panama.

March, 1866.—Unsuccessful revolution.

April, 1867.—Attempt to overthrow Government.

August, 1867.—Attempt at revolution.

July 5, 1868.—Revolution; provisional government inaugurated.

August 29, 1868.—Revolution; provisional government overthrown.

April, 1871.—Revolution; followed apparently by counter revolution.

April, 1873.—Revolution and civil war which lasted to October, 1875.

August, 1876.—Civil war which lasted until April, 1877.  
 July, 1878.—Rebellion.  
 December, 1878.—Revolt.  
 April, 1879.—Revolution.  
 June, 1879.—Revolution.  
 March, 1883.—Riot.  
 May, 1883.—Riot.  
 June, 1884.—Revolutionary attempt.  
 December, 1884.—Revolutionary attempt.  
 January, 1885.—Revolutionary disturbances.  
 March, 1885.—Revolution.  
 April, 1887.—Disturbance on Panama Railroad.  
 November, 1887.—Disturbance on line of canal.  
 January, 1889.—Riot.  
 January, 1895.—Revolution which lasted until April.  
 March, 1895.—Incendiary attempt.  
 October, 1899.—Revolution.  
 February, 1900, to July, 1900.—Revolution.  
 January, 1901.—Revolution.  
 July, 1901.—Revolutionary disturbances.  
 September, 1901.—City of Colon taken by rebels.  
 March, 1902.—Revolutionary disturbances.  
 July, 1902.—Revolution.

The above is only a partial list of the revolutions, rebellions, insurrections, riots, and other outbreaks that have occurred during the period in question, yet they number 53 for the 57 years. It will be noted that one of them lasted for nearly three years before it was quelled; another for nearly a year. In short, the experience of over half a century has shown Colombia to be utterly incapable of keeping order on the Isthmus. Only the active interference of the United States has enabled her to preserve so much as a semblance of sovereignty. Had it not been for the exercise by the United States of the police power in her interest, her connection with the Isthmus would have been sundered long ago. In 1856, in 1860, in 1873, in 1885, in 1901, and again in 1902, sailors and marines from United States warships were forced to land in order to patrol the Isthmus, to protect life and property, and to see that the transit across the Isthmus was kept open. In 1861, in 1862, in 1885, and in 1900 the Colombian Government asked that the United States Government would land troops to protect its interests and maintain order on the Isthmus. Perhaps the most extraordinary request is that which has just been received and which runs as follows:

#### LATEST PROPOSITION OF COLOMBIAN GOVERNMENT.

Knowing that revolution has already commenced in Panama [an eminent Colombian] says that if the Government of the United States will land troops to preserve Colombian sovereignty, and the transit, if requested by Colombian chargé d'affaires, this Government will declare martial law, and by virtue of vested constitutional authority, when public order is disturbed, will approve by decree the ratification of the canal treaty as signed, or, if the Government of the United States prefers, will call extra session of the Congress—with new and friendly members—next May to approve the treaty. [An eminent Colombian] has the perfect confidence of Vice President, he says, and if it became necessary will go to the Isthmus or send representative there to adjust matters along above lines to the satisfaction of the people there.

This dispatch is noteworthy from two standpoints. Its offer of immediately guaranteeing the treaty to us is in sharp contrast with the positive and contemptuous refusal of the Congress which has just closed its sessions to consider favorably such a treaty; it shows

that the Government which made the treaty really had absolute control over the situation, but did not choose to exercise this control. The dispatch further calls on us to restore order and secure Colombian supremacy in the Isthmus from which the Colombian Government has just by its action decided to bar us by preventing the construction of the canal.

**IMPORTANCE TO UNITED STATES OF CONTROL OF MEANS OF UNDISTURBED TRANSIT ACROSS ISTHMUS.**

The control, in the interest of the commerce and traffic of the whole civilized world, of the means of undisturbed transit across the Isthmus of Panama has become of transcendent importance to the United States. We have repeatedly exercised this control by intervening in the course of domestic dissension, and by protecting the territory from foreign invasion. In 1853 Mr. Everett assured the Peruvian minister that we should not hesitate to maintain the neutrality of the Isthmus in the case of war between Peru and Colombia. In 1864 Colombia, which has always been vigilant to avail itself of its privileges conferred by the treaty, expressed its expectation that in the event of war between Peru and Spain the United States would carry into effect the guaranty of neutrality. There have been few administrations of the State Department in which this treaty has not, either by the one side or the other, been used as a basis of more or less important demands. It was said by Mr. Fish in 1871 that the Department of State had reason to believe that an attack upon Colombian sovereignty on the Isthmus had, on several occasions, been averted by warning from this Government. In 1886, when Colombia was under the menace of hostilities from Italy in the Cerruti case, Mr. Bayard expressed the serious concern that the United States could not but feel that a European power should resort to force against a sister republic of this hemisphere, as to the sovereign and uninterrupted use of a part of whose territory we are guarantors under the solemn faith of a treaty.

The above recital of facts establishes beyond question: First, that the United States has for over half a century patiently and in good faith carried out its obligations under the treaty of 1846; second, that when for the first time it became possible for Colombia to do anything in requital of the services thus repeatedly rendered to it for 57 years by the United States, the Colombian Government peremptorily and offensively refused thus to do its part, even though to do so would have been to its advantage and immeasurably to the advantage of the State of Panama, at that time under its jurisdiction; third, that throughout this period revolutions, riots, and factional disturbances of every kind have occurred one after the other in almost uninterrupted succession, some of them lasting for months and even for years, while the central government was unable to put them down or to make peace with the rebels; fourth, that these disturbances instead of showing any sign of abating have tended to grow more numerous and more serious in the immediate past; fifth, that the control of Colombia over the Isthmus of Panama could not be maintained without the armed intervention and assistance of the United States. In other words, the Government of Colombia, though wholly unable to maintain order on the Isthmus,

has nevertheless declined to ratify a treaty the conclusion of which opened the only chance to secure its own stability and to guarantee permanent peace on, and the construction of a canal across, the Isthmus.

Under such circumstances the Government of the United States would have been guilty of folly and weakness, amounting in their sum to a crime against the Nation, had it acted otherwise than it did when the revolution of November 3 last took place in Panama. This great enterprise of building the interoceanic canal can not be held up to gratify the whims, or out of respect to the governmental impotence, or to the even more sinister and evil political peculiarities, of people who, though they dwell afar off, yet, against the wish of the actual dwellers on the Isthmus, assert an unreal supremacy over the territory. The possession of a territory fraught with such peculiar capacities as the Isthmus in question carries with it obligations to mankind. The course of events has shown that this canal can not be built by private enterprise, or by any other nation than our own; therefore it must be built by the United States.

Every effort has been made by the Government of the United States to persuade Colombia to follow a course which was essentially not only to our interests and to the interests of the world, but to the interests of Colombia itself. These efforts have failed; and Colombia, by her persistence in repulsing the advances that have been made, has forced us, for the sake of our own honor, and of the interest and well-being, not merely of our own people, but of the people of the Isthmus of Panama and the people of the civilized countries of the world, to take decisive steps to bring to an end a condition of affairs which had become intolerable.

#### SUBMISSION OF TREATY WITH NEW REPUBLIC OF PANAMA.

The new Republic of Panama immediately offered to negotiate a treaty with us. This treaty I herewith submit. By it our interests are better safeguarded than in the treaty with Colombia which was ratified by the Senate at its last session. It is better in its terms than the treaties offered to us by the Republics of Nicaragua and Costa Rica. At last the right to begin this great undertaking is made available. Panama has done her part. All that remains is for the American Congress to do its part and forthwith this Republic will enter upon the execution of a project colossal in its size and of well-nigh incalculable possibilities for the good of this country and the nations of mankind.

#### PROVISIONS OF TREATY.

By the provisions of the treaty the United States guarantees and will maintain the independence of the Republic of Panama. There is granted to the United States in perpetuity the use, occupation, and control of a strip 10 miles wide and extending 3 nautical miles into the sea at either terminal, with all lands lying outside of the zone necessary for the construction of the canal or for its auxiliary works, and with the islands in the Bay of Panama. The cities of Panama and Colon are not embraced in the Canal Zone, but the United States assumes their sanitation and, in case of need, the maintenance

of order therein; the United States enjoys within the granted limits all the rights, power, and authority which it would possess were it the sovereign of the territory to the exclusion of the exercise of sovereign rights by the Republic. All railway and canal property rights belonging to Panama and needed for the canal pass to the United States, including any property of the respective companies in the cities of Panama and Colon; the works, property, and personnel of the canal and railways are exempted from taxation as well in the cities of Panama and Colon as in the Canal Zone and its dependencies. Free immigration of the personnel and importation of supplies for the construction and operation of the canal are granted. Provision is made for the use of military force and the building of fortifications by the United States for the protection of the transit. In other details, particularly as to the acquisition of the interests of the New Panama Canal Co. and the Panama Railway by the United States and the condemnation of private property for the uses of the canal, the stipulations of the Hay-Herran treaty are closely followed, while the compensation to be given for these enlarged grants remains the same, being \$10,000,000 payable on exchange of ratifications; and, beginning nine years from that date, an annual payment of \$250,000 during the life of the convention.

THEODORE ROOSEVELT.

WHITE HOUSE,  
*December 7, 1903.*

## MESSAGE OF PRESIDENT ROOSEVELT OF JANUARY 4, 1904.

[Message from the President of the United States transmitting a statement of action in executing the act entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1903.]

### *To the Senate and House of Representatives:*

I lay before the Congress for its information a statement of my action up to this time in executing the act entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902.

By the said act the President was authorized to secure for the United States the property of the Panama Canal Co. and the perpetual control of a strip 6 miles wide across the Isthmus of Panama. It was further provided that "should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Co. and the control of the necessary territory of the Republic of Colombia \* \* \* within a reasonable time and upon reasonable terms, then the President," should endeavor to provide for a canal by the Nicaragua route. The language quoted defines with exactness and precision what was to be done, and what as a matter of fact has been done. The President was authorized to go to the Nicaragua route only if within a reasonable time he could not obtain "control of the necessary territory of the Republic of Colombia." This control has now been obtained; the provision of the act has been complied with; it is no longer possible under existing legislation to go to the Nicaragua route as an alternative.

This act marked the climax of the effort on the part of the United States to secure, so far as legislation was concerned, an interoceanic canal across the Isthmus. The effort to secure a treaty for this purpose with one of the Central American Republics did not stand on the same footing with the effort to secure a treaty under any ordinary conditions. The proper position for the United States to assume in reference to this canal, and therefore to the governments of the Isthmus, had been clearly set forth by Secretary Cass in 1858. In my annual message I have already quoted what Secretary Cass said; but I repeat the quotation here, because the principle it states is fundamental:

While the rights of sovereignty of the States occupying this region (Central America) should always be respected, we shall expect that these rights be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of eastern isolation, to close the gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust relations as would prevent their general use.

The principle thus enunciated by Secretary Cass was sound then and it is sound now. The United States has taken the position that no other Government is to build the canal. In 1889, when France

proposed to come to the aid of the French Panama Co. by guaranteeing their bonds, the Senate of the United States in executive session, with only some three votes dissenting, passed a resolution as follows:

That the Government of the United States will look with serious concern and disapproval upon any connection of any European Government with the construction or control of any ship canal across the Isthmus of Darien or across Central America, and must regard any such connection or control as injurious to the just rights and interests of the United States and as a menace to their welfare.

Under the Hay-Pauncefote treaty it was explicitly provided that the United States should control, police, and protect the canal which was to be built, keeping it open for the vessels of all nations on equal terms. The United States thus assumed the position of guarantor of the canal and of its peaceful use by all the world. The guaranty included as a matter of course the building of the canal. The enterprise was recognized as responding to an international need; and it would be the veriest travesty on right and justice to treat the Governments in possession of the Isthmus as having the right, in the language of Mr. Cass—

to close the gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them.

When this Government submitted to Colombia the Hay-Herran treaty three things were, therefore, already settled.

One was that the canal should be built. The time for delay, the time for permitting the attempt to be made by private enterprise, the time for permitting any government of antisocial spirit and of imperfect development to bar the work, was past. The United States had assumed in connection with the canal certain responsibilities not only to its own people, but to the civilized world, which imperatively demanded that there should no longer be delay in beginning the work.

Second. While it was settled that the canal should be built without unnecessary or improper delay, it was no less clearly shown to be our purpose to deal not merely in a spirit of justice but in a spirit of generosity with the people through whose land we might build it. The Hay-Herran treaty, if it erred at all, erred in the direction of an over-generosity towards the Colombian Government. In our anxiety to be fair we had gone to the very verge in yielding to a weak nation's demands what that nation was helplessly unable to enforce from us against our will. The only criticisms made upon the Administration for the terms of the Hay-Herran treaty were for having granted too much to Colombia, not for failure to grant enough. Neither in the Congress nor in the public press, at the time that this treaty was formulated, was there complaint that it did not in the fullest and amplest manner guarantee to Colombia everything that she could by any color of title demand.

Nor is the fact to be lost sight of that the rejected treaty, while generously responding to the pecuniary demands of Colombia, in other respects merely provided for the construction of the canal in conformity with the express requirements of the act of the Congress of June 28, 1902. By that act, as heretofore quoted, the President was authorized to acquire from Colombia, for the purposes of the canal, "perpetual control" of a certain strip of land; and it was expressly required that the "control" thus to be obtained should

include "jurisdiction" to make police and sanitary regulations and to establish such judicial tribunals as might be agreed on for their enforcement. These were conditions precedent prescribed by the Congress; and for their fulfillment suitable stipulations were embodied in the treaty. It has been stated in public prints that Colombia objected to these stipulations, on the ground that they involved a relinquishment of her "sovereignty"; but in the light of what has taken place this alleged objection must be considered as an after-thought. In reality, the treaty, instead of requiring a cession of Colombia's sovereignty over the canal strip, expressly acknowledged, confirmed, and preserved her sovereignty over it. The treaty in this respect simply proceeded on the lines on which all the negotiations leading up to the present situation have been conducted. In those negotiations the exercise by the United States, subject to the paramount rights of the local sovereign, of a substantial control over the canal and the immediately adjacent territory, has been treated as a fundamental part of any arrangement that might be made. It has formed an essential feature of all our plans, and its necessity is fully recognized in the Hay-Pauncefote treaty. The Congress, in providing that such control should be secured, adopted no new principle, but only incorporated in its legislation a condition the importance and propriety of which were universally recognized. During all the years of negotiation and discussion that preceded the conclusion of the Hay-Herran treaty, Colombia never intimated that the requirement by the United States of control over the canal strip would render unattainable the construction of a canal by way of the Isthmus of Panama; nor were we advised, during the months when legislation of 1902 was pending before the Congress, that the terms which it embodied would render negotiations with Colombia impracticable. It is plain that no nation could construct and guarantee the neutrality of the canal with a less degree of control than was stipulated for in the Hay-Herran treaty. A refusal to grant such degree of control was necessarily a refusal to make any practicable treaty at all. Such refusal therefore squarely raised the question whether Colombia was entitled to bar the transit of the world's traffic across the Isthmus.

That the canal itself was eagerly demanded by the people of the locality through which it was to pass, and that the people of this locality no less eagerly longed for its construction under American control, are shown by the unanimity of action in the new Panama Republic. Furthermore, Colombia, after having rejected the treaty in spite of our protests and warnings when it was in her power to accept it, has since shown the utmost eagerness to accept the same treaty if only the status quo could be restored. One of the men standing highest in the official circles of Colombia, on November 6, addressed the American minister at Bogota, saying that if the Government of the United States would land troops to preserve Colombian sovereignty and the transit, the Colombian Government would "declare martial law; and, by virtue of vested constitutional authority, when public order is disturbed, [would] approve by decree the ratification of the canal treaty as signed; or, if the Government of the United States prefers, [would] call extra session of the Congress—with new and friendly members—next May to approve the treaty." Having these facts in view, there is no shadow of question that the

Government of the United States proposed a treaty which was not merely just, but generous to Colombia, which our people regarded as erring, if at all, on the side of overgenerosity; which was hailed with delight by the people of the immediate locality through which the canal was to pass, who were most concerned as to the new order of things, and which the Colombian authorities now recognize as being so good that they are willing to promise its unconditional ratification if only we will desert those who have shown themselves our friends and restore to those who have shown themselves unfriendly the power to undo what they did. I pass by the question as to what assurance we have that they would now keep their pledge and not again refuse to ratify the treaty if they had the power; for, of course, I will not for one moment discuss the possibility of the United States committing an act of such baseness as to abandon the new Republic of Panama.

Third. Finally the Congress definitely settled where the canal was to be built. It was provided that a treaty should be made for building the canal across the Isthmus of Panama; and if, after reasonable time, it proved impossible to secure such treaty, that then we should go to Nicaragua. The treaty has been made; for it needs no argument to show that the intent of the Congress was to insure a canal across Panama, and that whether the Republic granting the title was called New Granada, Colombia, or Panama mattered not one whit. As events turned out, the question of "reasonable time" did not enter into the matter at all. Although, as the months went by, it became increasingly improbable that the Colombian Congress would ratify the treaty or take steps which would be equivalent thereto, yet all chance for such action on their part did not vanish until the Congress closed at the end of October; and within three days thereafter the revolution in Panama had broken out. Panama became an independent state, and the control of the territory necessary for building the canal then became obtainable. The condition under which alone we could have gone to Nicaragua thereby became impossible of fulfillment. If the pending treaty with Panama should not be ratified by the Senate this would not alter the fact that we could not go to Nicaragua. The Congress has decided the route, and there is no alternative under existing legislation.

When in August it began to appear probable that the Colombian Legislature would not ratify the treaty it became incumbent upon me to consider well what the situation was and to be ready to advise the Congress as to what were the various alternatives of action open to us. There were several possibilities. One was that Colombia would at the last moment see the unwisdom of her position. That there might be nothing omitted, Secretary Hay, through the minister at Bogota, repeatedly warned Colombia that grave consequences might follow from her rejection of the treaty. Although it was a constantly diminishing chance, yet the possibility of ratification did not wholly pass away until the close of the session of the Colombian Congress.

A second alternative was that by the close of the session on the last day of October, without the ratification of the treaty by Colombia and without any steps taken by Panama, the American Congress

on assembling early in November would be confronted with a situation in which there had been a failure to come to terms as to building the canal along the Panama route, and yet there had not been a lapse of a reasonable time—using the word reasonable in any proper sense such as would justify the administration going to the Nicaragua route. This situation seemed on the whole the most likely, and as a matter of fact I had made the original draft of my message to the Congress with a view to its existence.

It was the opinion of eminent international jurists that in view of the fact that the great design of our guaranty under the treaty of 1846 was to dedicate the Isthmus to the purposes of interoceanic transit, and above all to secure the construction of an interoceanic canal, Colombia could not under existing conditions refuse to enter into a proper arrangement with the United States to that end without violating the spirit and substantially repudiating the obligations of a treaty the full benefits of which she had enjoyed for over 50 years. My intention was to consult the Congress as to whether under such circumstances it would not be proper to announce that the canal was to be dug forthwith; that we would give the terms that we had offered and no others; and that if such terms were not agreed to we would enter into an arrangement with Panama direct, or take what other steps were needful in order to begin the enterprise.

A third possibility was that the people of the Isthmus, who had formerly constituted an independent state, and who until recently were united to Colombia only by a loose tie of Federal relationship, might take the protection of their own vital interests into their own hands, reassert their former rights, declare their independence upon just grounds, and establish a government competent and willing to do its share in this great work for civilization. This third possibility is what actually occurred. Everyone knew that it was a possibility, but it was not until toward the end of October that it appeared to be an imminent probability. Although the administration, of course, had special means of knowledge, no such means were necessary in order to appreciate the possibility, and toward the end the likelihood, of such a revolutionary outbreak and of its success. It was a matter of common notoriety. Quotations from the daily papers could be indefinitely multiplied to show this state of affairs; a very few will suffice. From Costa Rica on August 31 a special was sent to the Washington Post, running as follows:

SAN JOSE, COSTA RICA, *August 31.*

Travelers from Panama report the Isthmus alive with fires of a new revolution. It is inspired, it is believed, by men who, in Panama and Colon, have systematically engendered the pro-American feeling to secure the building of the Isthmian Canal by the United States.

The Indians have risen, and the late followers of Gen. Benjamin Herrera are mustering in the mountain villages, preparatory to joining in an organized revolt, caused by the rejection of the canal treaty.

Hundreds of stacks of arms, confiscated by the Colombian Government at the close of the late revolution, have reappeared from some mysterious source, and thousands of rifles that look suspiciously like the Mausers the United States captured in Cuba are issuing to the gathering forces from central points of distribution. With the arms goes ammunition, fresh from factories, showing the movement is not spasmodic, but is carefully planned.

\* \* \* \* \*

The Government forces in Panama and Colon, numbering less than 1,500 men, are reported to be a little more than friendly to the revolutionary spirit. They have been ill paid since the revolution closed and their only hope of prompt payment is another war.

Gen. Huertes, commander of the forces, who is ostensibly loyal to the Bogota Government, is said to be secretly friendly to the proposed revolution. At least, all his personal friends are open in denunciation of the Bogota Government and the failure of the Colombian Congress to ratify the canal treaty.

The consensus of opinion gathered from late arrivals from the Isthmus is that the revolution is coming, and that it will succeed.

A special dispatch to the Washington Post, under date of New York, September 1, runs as follows:

B. G. Duque, editor and proprietor of the Panama Star and Herald, a resident of the Isthmus during the past 27 years, who arrived to-day in New York, declared that if the canal treaty fell through a revolution would be likely to follow.

"There is a very strong feeling in Panama," said Mr. Duque, "that Colombia, in negotiating the sale of a canal concession in Panama, is looking for profits that might just as well go to Panama herself.

"The Colombian Government, only the other day, suppressed a newspaper that dared to speak of independence for Panama. A while ago there was a secret plan afoot to cut loose from Colombia and seek the protection of the United States."

In the New York Herald of September 10 the following statement appeared:

Representatives of strong interests on the Isthmus of Panama who make their headquarters in this city are considering a plan of action to be undertaken in cooperation with men of similar views in Panama and Colon to bring about a revolution and form an independent government in Panama opposed to that in Bogota.

There is much indignation on the Isthmus on account of the failure of the canal treaty, which is ascribed to the authorities at Bogota. This opinion is believed to be shared by a majority of the Isthmians of all shades of political belief, and they think it is to their best interest for a new republic to be formed on the Isthmus, which may negotiate directly with the United States a new treaty which will permit the digging of the Panama Canal under favorable conditions.

In the New York Times, under date of September 13, there appeared from Bogota the following statement:

A proposal made by Sr. Perez y Sotos to ask the Executive to appoint an anti-secessionist governor in Panama has been approved by the Senate. Speakers in the Senate said that Sr. Obaldia, who was recently appointed governor of Panama, and who is favorable to a canal treaty, was a menace to the national integrity. Senator Marroquin protested against the action of the Senate.

President Marroquin succeeded later in calming the Congressmen. It appears that he was able to give them satisfactory reasons for Gov. Obaldia's appointment. He appears to realize the imminent peril of the Isthmus of Panama declaring its independence.

Sr. Deroux, representative for a Panama constituency, recently delivered a sensational speech in the House. Among other things, he said:

"In Panama the bishops, governors, magistrates, military chiefs, and their subordinates have been and are foreign to the department. It seems that the Government, with surprising tenacity, wishes to exclude the Isthmus from all participation in public affairs. As regards international dangers in the Isthmus, all I can say is that if these dangers exist they are due to the conduct of the national government, which is in the direction of reaction.

"If the Colombian Government will not take action with a view to preventing disaster, the responsibility will rest with it alone."

In the New York Herald of October 26 it was reported that a revolutionary expedition of about 70 men had actually landed on the Isthmus. In the Washington Post of October 29 it was reported from Panama that in view of the impending trouble on the Isthmus the Bogota Government had gathered troops in sufficient numbers to at once put down an attempt at secession. In the New York Herald of October 30 it was announced from Panama that Bogota

was hurrying troops to the Isthmus to put down the projected revolt. In the New York Herald of November 2 it was announced that in Bogota the Congress had indorsed the energetic measures taken to meet the situation on the Isthmus and that 6,000 men were about to be sent thither.

Quotations like the above could be multiplied indefinitely. Suffice it to say that it was notorious that revolutionary trouble of a serious nature was impending upon the Isthmus. But it was not necessary to rely exclusively upon such general means of information. On October 15 Commander Hubbard, of the Navy, notified the Navy Department that, though things were quiet on the Isthmus, a revolution had broken out in the State of Cauca. On October 16, at the request of Lieut. Gen. Young, I saw Capt. C. B. Humphrey and Lieut. Grayson Mallet-Prevost Murphy, who had just returned from a four months' tour through the northern portions of Venezuela and Colombia. They stopped in Panama on their return in the latter part of September. At the time they were sent down there had been no thought of their going to Panama, and their visit to the Isthmus was but an unpremeditated incident of their return journey; nor had they been spoken to by anyone at Washington regarding the possibility of a revolt. Until they landed at Colon they had no knowledge that a revolution was impending, save what they had gained from the newspapers. What they saw in Panama so impressed them that they reported thereon to Lieut. Gen. Young, according to his memorandum—

that while on the Isthmus they became satisfied beyond question that, owing largely to the dissatisfaction because of the failure of Colombia to ratify the Hay-Herran treaty a revolutionary party was in course of organization having for its object the separation of the State of Panama from Colombia, the leader being Dr. Richard Arango, a former governor of Panama; that when they were on the Isthmus arms and ammunition were being smuggled into the city of Colon in piano boxes, merchandise crates, etc., the small arms received being principally the Gras French rifle, the Remington, and the Mauser; that nearly every citizen in Panama had some sort of rifle or gun in his possession, with ammunition therefor; that in the city of Panama there had been organized a fire brigade which was really intended for a revolutionary military organization; that there were representatives of the revolutionary organization at all important points on the Isthmus; that in Panama, Colon, and the other principal places of the Isthmus police forces had been organized which were in reality revolutionary forces; that the people on the Isthmus seemed to be unanimous in their sentiment against the Bogota Government, and their disgust over the failure of that Government to ratify the treaty providing for the construction of the canal, and that a revolution might be expected immediately upon the adjournment of the Colombian Congress without ratification of the treaty.

Lieut. Gen. Young regarded their report as of such importance as to make it advisable that I should personally see these officers. They told me what they had already reported to the lieutenant general, adding that on the Isthmus the excitement was seething, and that the Colombian troops were reported to be disaffected. In response to a question of mine they informed me that it was the general belief that the revolution might break out at any moment, and if it did not happen before, would doubtless take place immediately after the closing of the Colombian Congress (at the end of October) if the canal treaty were not ratified. They were certain that the revolution would occur, and before leaving the Isthmus had made their own reckoning as to the time, which they had set down as being probably from three to four weeks after their leaving. The reason they set this as the probable inside limit of time was that

they reckoned that it would be at least three or four weeks – say, not until October 20 – before a sufficient quantity of arms and munitions would have been landed.

In view of all these facts I directed the Navy Department to issue instructions such as would insure our having ships within easy reach of the Isthmus in the event of need arising. Orders were given on October 19 to the *Boston* to proceed to San Juan del Sur, Nicaragua; to the *Dixie* to prepare to sail from League Island; and to the *Atlanta* to proceed to Guantanamo. On October 30 the *Nashville* was ordered to proceed to Colon. On November 2, when, the Colombian Congress having adjourned, it was evident that the outbreak was imminent, and when it was announced that both sides were making ready forces whose meeting would mean bloodshed and disorder, the Colombian troops having been embarked on vessels, the following instructions were sent to the commanders of the *Boston*, *Nashville*, and *Dixie*:

Maintain free and uninterrupted transit. If interruption is threatened by armed force, occupy the line of railroad. Prevent landing of any armed force with hostile intent, either Government or insurgent, at any point within 50 miles of Panama. Government force reported approaching the Isthmus in vessels. Prevent their landing if, in your judgment, the landing would precipitate a conflict.

These orders were delivered in pursuance of the policy on which our Government had repeatedly acted. This policy was exhibited in the following orders, given under somewhat similar circumstances last year, and the year before, and the year before that. The first two telegrams are from the Department of State to the consul at Panama:

JULY 25, 1900.

You are directed to protest against any act of hostility which may involve or imperil the safe and peaceful transit of persons or property across the Isthmus of Panama. The bombardment of Panama would have this effect, and the United States must insist upon the neutrality of the Isthmus as guaranteed by the treaty.

NOVEMBER 20, 1901.

Notify all parties molesting or interfering with free transit across the Isthmus that such interference must cease and that the United States will prevent the interruption of traffic upon the railroad. Consult with captain of the *Iowa*, who will be instructed to land marines, if necessary, for the protection of the railroad, in accordance with the treaty rights and obligations of the United States. Desirable to avoid bloodshed, if possible.

The next three telegrams are from and to the Secretary of the Navy:

SEPTEMBER 12, 1902.

RANGER, *Panama*:

United States guarantees perfect neutrality of Isthmus and that a free transit from sea to sea be not interrupted or embarrassed. \* \* \* Any transportation of troops which might contravene these provisions of treaty should not be sanctioned by you nor should use of road be permitted which might convert the line of transit into theater of hostility.

MOODY.

COLON, *September 20, 1902.*

SECRETARY NAVY, *Washington*:

Everything is conceded. The United States guards and guarantees traffic and the line of transit. To-day I permitted the exchange of Colombian troops from Panama to Colon, about 1,000 men each way, the troops without arms in train guarded by American naval force in the same manner as other passengers; arms and ammunition in separate train, guarded also by naval force in the same manner as other freight.

McLEAN.

PANAMA, October 3, 1902.

SECRETARY NAVY, Washington, D. C.:

Have sent this communication to the American consul at Panama:

"Inform governor while trains running under United States protection I must decline transportation any combatants, ammunition, arms, which might cause interruption traffic or convert line of transit into theater hostilities."

CASEY.

On November 3 Commander Hubbard responded to the above-quoted telegram of November 2, 1903, saying that before the telegram had been received 400 Colombian troops from Cartagena had landed at Colon; that there had been no revolution on the Isthmus, but that the situation was most critical if the revolutionary leaders should act. On this same date the Associated Press in Washington received a bulletin stating that a revolutionary outbreak had occurred. When this was brought to the attention of the Assistant Secretary of State, Mr. Loomis, he prepared the following cablegram to the consul general at Panama and the consul at Colon:

Uprising on Isthmus reported. Keep department promptly and fully informed.

Before this telegram was sent, however, one was received from Consul Malmros at Colon, running as follows:

Revolution imminent. Government force on the Isthmus about 500 men. Their official promised support revolution. Fire department, Panama, 441, are well organized and favor revolution. Government vessel, *Cartagena*, with about 400 men, arrived early to-day with new commander in chief, Tobar. Was not expected until November 10. Tobar's arrival is not probable to stop revolution.

This cablegram was received at 2.35 p. m., and at 3.40 p. m. Mr. Loomis sent the telegram which he had already prepared to both Panama and Colon. Apparently, however, the consul general at Panama had not received the information embodied in the Associated Press bulletin, upon which the Assistant Secretary of State based his dispatch; for his answer was that there was no uprising, although the situation was critical, this answer being received at 8.15 p. m. Immediately afterwards he sent another dispatch, which was received at 9.50 p. m., saying that the uprising had occurred, and had been successful, with no bloodshed. The Colombian gunboat *Bogota* next day began to shell the city of Panama, with the result of killing one Chinaman. The consul general was directed to notify her to stop firing. Meanwhile, on November 4, Commander Hubbard notified the department that he had landed a force to protect the lives and property of American citizens against the threats of the Colombian soldiery.

Before any step whatever had been taken by the United States troops to restore order, the commander of the newly landed Colombian troops had indulged in wanton and violent threats against American citizens which created serious apprehension. As Commander Hubbard reported in his letter of November 5, this officer and his troops practically began war against the United States, and only the forbearance and coolness of our officers and men prevented bloodshed. The letter of Commander Hubbard is of such interest that it deserves quotation in full, and runs as follows:

U. S. S. "NASHVILLE," THIRD RATE,  
Colon, U. S. Colombia, November 5, 1903.

SIR: Pending a complete report of the occurrences of the last three days in Colon, Colombia, I most respectfully invite the department's attention to those of the date of Wednesday, November 4, which amounted to practically the making of war against

the United States by the officer in command of the Colombian troops in Colon. At 1 o'clock p. m. on that date I was summoned on shore by a preconcerted signal, and on landing met the United States consul, vice consul, and Col. Shaler, the general superintendent of the Panama Railroad. The consul informed me that he had received notice from the officer commanding the Colombian troops, Col. Torres, through the prefect of Colon, to the effect that if the Colombian officers, Gens. Tobal and Amaya, who had been seized in Panama on the evening of the 3d of November by the Independents and held as prisoners, were not released by 2 o'clock p. m., he, Torres, would open fire on the town of Colon and kill every United States citizen in the place, and my advice and action were requested. I advised that all the United States citizens should take refuge in the shed of the Panama Railroad Co., a stone building susceptible of being put into good state for defense, and that I would immediately land such body of men, with extra arms for arming the citizens, as the complement of the ship would permit. This was agreed to and I immediately returned on board, arriving at 1.15 p. m. The order for landing was immediately given, and at 1.30 p. m. the boats left the ship with a party of 42 men under the command of Lieut. Commander H. M. Witzel, with Midshipman J. P. Jackson as second in command. Time being pressing, I gave verbal orders to Mr. Witzel to take the building above referred to, to put it into the best state of defense possible, and protect the lives of the citizens assembled there—not firing unless fired upon. The women and children took refuge on the German steamer *Marcomania* and Panama Railroad Steamer *City of Washington*, both ready to haul out from dock, if necessary. The *Nashville* I got under way and patrolled with her along the water front close in and ready to use either small-arm or shrapnel fire. The Colombians surrounded the building of the railroad company almost immediately after we had taken possession, and for about one and a half hours their attitude was most threatening, it being seemingly their purpose to provoke an attack. Happily our men were cool and steady, and while the tension was very great no shot was fired. At about 3.15 p. m. Col. Torres came into the building for an interview and expressed himself as most friendly to Americans, claiming that the whole affair was a misapprehension and that he would like to send the alcalde of Colon to Panama to see Gen. Tobal and have him direct the discontinuance of the show of force. A special train was furnished and safe conduct guaranteed. At about 5.30 p. m. Col. Torres made the proposition of withdrawing his troops to Monkey Hill, if I would withdraw the *Nashville's* force and leave the town in possession of the police until the return of the alcalde on the morning of the 5th. After an interview with the United States consul and Col. Shaler as to the probability of good faith in the matter, I decided to accept the proposition and brought my men on board, the disparity in numbers between my force and that of the Colombians, nearly 10 to 1, making me desirous of avoiding a conflict so long as the object in view, the protection of American citizens, was not imperiled.

I am positive that the determined attitude of our men, their coolness and evident intention of standing their ground, had a most salutary and decisive effect on the immediate situation and was the initial step in the ultimate abandoning of Colon by these troops and their return to Cartagena the following day. Lieut. Commander Witzel is entitled to much praise for his admirable work in command on the spot.

I feel that I can not sufficiently strongly represent to the department the grossness of this outrage and the insult to our dignity, even apart from the savagery of the threat.

Very respectfully,

JOHN HUBBARD,

Commander, U. S. Navy, Commanding.

The SECRETARY OF THE NAVY,

Navy Department, Washington, D. C.

In his letter of November 8 Commander Hubbard sets forth the facts more in detail:

U. S. S. "NASHVILLE," THIRD RATE,

Porto Bello, U. S. Colombia, November 8, 1903.

SIR: 1. I have the honor to make the following report of the occurrences which took place at Colon and Panama in the interval between the arrival of the *Nashville* at Colon on the evening of November 2, 1903, and the evening of November 5, 1903, when by the arrival of the U. S. S. *Dixie* at Colon I was relieved as senior officer by Commander F. H. Delano, U. S. Navy.

2. At the time of the arrival of the *Nashville* at Colon at 5.30 p. m. on November 2 everything on the Isthmus was quiet. There was talk of proclaiming the independence of Panama, but no definite action had been taken and there had been no disturbance of peace and order. At daylight on the morning of November 3 it was found that a

vessel which had come in during the night was the Colombian gunboat *Cartagena*, carrying between 400 and 500 troops. I had her boarded and learned that these troops were for the garrison at Panama. Inasmuch as the Independent party had not acted and the Government of Colombia was at the time in undisputed control of the Province of Panama, I did not feel, in the absence of any instructions, that I was justified in preventing the landing of these troops, and at 8.30 o'clock they were disembarked. The commanding officers, Gens. Amaya and Tobal, with four others, immediately went over to Panama to make arrangements for receiving and quartering their troops, leaving the command in charge of an officer whom I later learned to be Col. Torres. The department's message, addressed to the care of the United States consul, I received at 10.30 a. m. It was delivered to one of the ship's boats while I was at the consul's and not to the consul as addressed. The message was said to have been received at the cable office at 9.30 a. m. Immediately on deciphering the message I went on shore to see what arrangements the railroad company had made for the transportation of these troops to Panama, and learned that the company would not transport them except on request of the governor of Panama, and that the prefect at Colon and the officer left in command of the troops had been so notified by the general superintendent of the Panama Railroad Co. I remained at the company's office until it was sure that no action on my part would be needed to prevent the transportation of the troops that afternoon, when I returned on board and cabled the department the situation of affairs. At about 5.30 p. m. I again went on shore and received notice from the general superintendent of the railroad that he had received the request for the transportation of the troops and that they would leave on the 8 a. m. train on the following day. I immediately went to see the general superintendent, and learned that it had just been announced that a provisional government had been established at Panama; that Gens. Amaya and Tobal, the governor of Panama, and 4 officers, who had gone to Panama in the morning, had been seized and were held as prisoners; that they had an organized force of 1,500 troops, and wished the Government troops in Colon to be sent over. This I declined to permit, and verbally prohibited the general superintendent from giving transportation to the troops of either party.

It being then late in the evening, I sent early in the morning of November 4 written notification to the general superintendent of the Panama Railroad, to the prefect of Colon, and to the officer left in command of the Colombian troops, later ascertained to be Col. Torres, that I had prohibited the transportation of troops in either direction in order to preserve the free and uninterrupted transit of the Isthmus. Copies of these letters are hereto appended; also copy of my notification to the consul. Except to a few people, nothing was known in Colon of the proceedings in Panama until the arrival of the train at 10.45 on the morning of the 4th. Some propositions were, I was later told, made to Col. Torres by the representatives of the new Government at Colon, with a view to inducing him to reembark in the *Cartagena* and return to the port of Cartagena, and it was in answer to this proposition that Col. Torres made the threat and took the action reported in my letter No. 96, of November 5, 1903. The *Cartagena* left the port just after the threat was made, and I did not deem it expedient to attempt to detain her, as such action would certainly, in the then state of affairs, have precipitated a conflict on shore which I was not prepared to meet. It is my understanding that she returned to Cartagena. After the withdrawal of the Colombian troops on the evening of November 4, and the return of the *Nashville's* force on board, as reported in my letter No. 96, there was no disturbance on shore, and the night passed quietly. On the morning of the 5th I discovered that the commander of the Colombian troops had not withdrawn so far from the town as he had agreed, but was occupying buildings near the outskirts of the town. I immediately inquired into the matter and learned that he had some trivial excuse for not carrying out his agreement, and also that it was his intention to occupy Colon again on the arrival of the alcalde, due at 10.45 a. m.; unless Gen. Tobal sent word by the alcalde that he, Col. Torres, should withdraw. That Gen. Tobal had declined to give any instructions I was cognizant of, and the situation at once became quite as serious as on the day previous. I immediately landed an armed force, reoccupied the same building; also landed two 1-pounders and mounted them on platform cars behind protection of cotton bales, and then in company with the United States consul had an interview with Col. Torres, in the course of which I informed him that I had relanded my men because he had not kept his agreement; that I had no interest in the affairs of either party; that my attitude was strictly neutral; that the troops of neither side should be transported; that my sole purpose in landing was to protect the lives and property of American citizens if threatened, as they had been threatened, and to maintain the free and uninterrupted transit of the Isthmus, and that purpose I should maintain by force if necessary. I also strongly advised that in the interests of peace, and to prevent the possibility of a conflict that could not but be regrettable, he should carry out his agreement of the previous evening and withdraw to Monkey Hill.

Col. Torres's only reply was that it was unhealthy at Monkey Hill, a reiteration of his love of Americans, and persistence in his intention to occupy Colon, should Gen. Tobal not give him directions to the contrary.

On the return of the alcalde at about 11 a. m. the Colombian troops marched into Colon, but did not assume the threatening demeanor of the previous day. The American women and children again went on board the *Marcomania* and *City of Washington*, and through the British vice consul I offered protection to British subjects as directed in the department's cablegram. A copy of the British vice-consul's acknowledgment is hereto appended. The *Nashville* I got underway as on the previous day and moved close in to protect the water front. During the afternoon several propositions were made to Col. Torres by the representatives of the new Government, and he was finally persuaded by them to embark on the Royal Mail steamer *Orinoco* with all his troops and return to Cartagena. The *Orinoco* left their dock with the troops—474 all told—at 7.35 p. m. The *Dixie* arrived and anchored at 7.05 p. m., when I went on board and acquainted the commanding officer with the situation. A portion of the marine battalion was landed and the *Nashville's* force withdrawn.

3. On the evening of November 4 Maj. William M. Black and Lieut. Mark Brooke, Corps of Engineers, United States Army, came to Colon from Culebra and volunteered their services, which were accepted, and they rendered very efficient help on the following day.

4. I beg to assure the department that I had no part whatever in the negotiations that were carried on between Col. Torres and the representatives of the provisional government; that I landed an armed force only when the lives of American citizens were threatened, and withdrew this force as soon as there seemed to be no grounds for further apprehension of injury to American lives or property; that I relanded an armed force because of the failure of Col. Torres to carry out his agreement to withdraw and announced intention of returning, and that my attitude throughout was strictly neutral as between the two parties, my only purpose being to protect the lives and property of American citizens and to preserve the free and uninterrupted transit of the Isthmus.

Very respectfully,

(Signed) JOHN HUBBARD,

Commander, United States Navy, Commanding.

The SECRETARY OF THE NAVY,

Bureau of Navigation, Navy Department,

Washington, D. C.

This plain official account of the occurrences of November 4 shows that, instead of there having been too much prevision by the American Government for the maintenance of order and the protection of life and property on the Isthmus, the orders for the movement of the American war ships had been too long delayed; so long, in fact, that there were but 42 marines and sailors available to land and protect the lives of American men and women. It was only the coolness and gallantry with which this little band of men wearing the American uniform faced 10 times their number of armed foes, bent on carrying out the atrocious threat of the Colombian commander that prevented a murderous catastrophe. At Panama, when the revolution broke out, there was no American man-of-war and no American troops or sailors. At Colon, Commander Hubbard acted with entire impartiality toward both sides, preventing any movement, whether by the Colombians or the Panamans, which would tend to produce bloodshed. On November 9 he prevented a body of the revolutionists from landing at Colon. Throughout he behaved in the most creditable manner. In the New York Evening Post, under date of Panama, December 8, there is an article from a special correspondent, which sets forth in detail the unbearable oppression of the Colombian Government in Panama. In this article is an interesting interview with a native Panaman, which runs in part as follows:

\* \* \* We looked upon the building of the canal as a matter of life or death to us. We wanted that because it meant, with the United States in control of it, peace and

prosperity for us. President Marroquin appointed an Isthmian to be governor of Panama; and we looked upon that as of happy augury. Soon we heard that the canal treaty was not likely to be approved at Bogota; next we heard that our Isthmian governor, Obaldía, who had scarcely assumed power, was to be superseded by a soldier from Bogota. \* \* \*

Notwithstanding all that Colombia has drained us of in the way of revenues, she did not bridge for us a single river, nor make a single roadway, nor erect a single college where our children could be educated, nor do anything at all to advance our industries. \* \* \* Well, when the new generals came we seized them, arrested them, and the town of Panama was in joy. Not a protest was made, except the shots fired from the Colombian gunboat *Bogota*, which killed one Chinese lying in his bed. We were willing to encounter the Colombian troops at Colon and fight it out; but the commander of the United States cruiser *Nashville* forbade Supt. Shaler to allow the railroad to transport troops for either party. That is our story.

I call especial attention to the concluding portion of this interview, which states the willingness of the Panama people to fight the Colombian troops and the refusal of Commander Hubbard to permit them to use the railroad and therefore to get into a position where the fight could take place. It thus clearly appears that the fact that there was no bloodshed on the Isthmus was directly due—and only due—to the prompt and firm enforcement by the United States of its traditional policy. During the past 40 years revolutions and attempts at revolution have succeeded one another with monotonous regularity on the Isthmus, and again and again United States sailors and marines have been landed, as they were landed in this instance and under similar instructions, to protect the transit. One of these revolutions resulted in three years of warfare, and the aggregate of bloodshed and misery caused by them has been incalculable. The fact that in this last revolution not a life was lost, save that of the man killed by the shells of the Colombian gunboat, and no property destroyed, was due to the action which I have described. We, in effect, policed the Isthmus in the interest of its inhabitants and of our own national needs, and for the good of the entire civilized world. Failure to act as the Administration acted would have meant great waste of life, great suffering, great destruction of property, all of which was avoided by the firmness and prudence with which Commander Hubbard carried out his orders and prevented either party from attacking the other. Our action was for the peace both of Colombia and of Panama. It is earnestly to be hoped that there will be no unwise conduct on our part which may encourage Colombia to embark on a war which can not result in her regaining control of the Isthmus, but which may cause much bloodshed and suffering.

I hesitate to refer to the injurious insinuations which have been made of complicity by this Government in the revolutionary movement in Panama. They are as destitute of foundation as of propriety. The only excuse for my mentioning them is the fear lest unthinking persons might mistake for acquiescence the silence of mere self-respect. I think proper to say, therefore, that no one connected with this Government had any part in preparing, inciting, or encouraging the late revolution on the Isthmus of Panama, and that save from the reports of our military and naval officers, given above, no one connected with this Government had any previous knowledge of the revolution except such as was accessible to any person of ordinary intelligence who read the newspapers and kept up a current acquaintance with public affairs.

By the unanimous action of its people, without the firing of a shot—with a unanimity hardly before recorded in any similar case—the people of Panama declared themselves an independent Republic. Their recognition by this Government was based upon a state of facts in no way dependent for its justification upon our action in ordinary cases. I have not denied, nor do I wish to deny, either the validity or the propriety of the general rule that a new state should not be recognized as independent till it has shown its ability to maintain its independence. This rule is derived from the principle of nonintervention, and as a corollary of that principle has generally been observed by the United States. But, like the principle from which it is deduced, the rule is subject to exceptions; and there are in my opinion clear and imperative reasons why a departure from it was justified and even required in the present instance. These reasons embrace, first, our treaty rights; second, our national interests and safety; and, third, the interests of collective civilization.

I have already adverted to the treaty of 1846, by the thirty-fifth article of which the United States secured the right to a free and open transit across the Isthmus of Panama, and to that end agreed to guarantee to New Granada her rights of sovereignty and property over that territory. This article is sometimes discussed as if the latter guarantee constituted its sole object and bound the United States to protect the sovereignty of New Granada against domestic revolution. Nothing, however, could be more erroneous than this supposition. That our wise and patriotic ancestors, with all their dread of entangling alliances, would have entered into a treaty with New Granada solely, or even primarily, for the purpose of enabling that remnant of the original Republic of Colombia, then resolved into the States of New Granada, Venezuela, and Ecuador, to continue from Bogota to rule over the Isthmus of Panama is a conception that would in itself be incredible, even if the contrary did not clearly appear. It is true that since the treaty was made the United States has again and again been obliged forcibly to intervene for the preservation of order and the maintenance of an open transit, and that this intervention has usually operated to the advantage of the titular Government of Colombia, but it is equally true that the United States in intervening, with or without Colombia's consent, for the protection of the transit has disclaimed any duty to defend the Colombian Government against domestic insurrection or against the erection of an independent government on the Isthmus of Panama. The attacks against which the United States engaged to protect New Granadian sovereignty were those of foreign powers; but this engagement was only a means to the accomplishment of a yet more important end. The great design of the article was to assure the dedication of the Isthmus to the purposes of free and unobstructed interoceanic transit, the consummation of which would be found in an interoceanic canal. To the accomplishment of this object the Government of the United States had for years directed its diplomacy. It occupied a place in the instructions to our delegates to the Panama Congress during the Administration of John Quincy Adams. It formed the subject of a resolution of the Senate in 1835, and of the House of Representatives in 1839. In 1846 its importance had become still more apparent by reason of the Mexican War. If the treaty of 1846 did not in terms bind New Granada to grant reasonable concessions

for the construction of means of interoceanic communication, it was only because it was not imagined that such concessions would ever be withheld. As it was expressly agreed that the United States, in consideration of its onerous guarantee of New Granadian sovereignty, should possess the right of free and open transit on any modes of communication that might be constructed, the obvious intent of the treaty rendered it unnecessary, if not superfluous, in terms to stipulate that permission for the construction of such modes of communication should not be denied.

Long before the conclusion of the Hay-Herran treaty the course of events had shown that a canal to connect the Atlantic and Pacific oceans must be built by the United States or not at all. Experience had demonstrated that private enterprise was utterly inadequate for the purpose; and a fixed policy, declared by the United States on many memorable occasions, and supported by the practically unanimous voice of American opinion, had rendered it morally impossible that the work should be undertaken by European powers, either singly or in combination. Such were the universally recognized conditions on which the legislation of the Congress was based, and on which the late negotiations with Colombia were begun and concluded. Nevertheless, when the well-considered agreement was rejected by Colombia and the revolution on the Isthmus ensued, one of Colombia's first acts was to invoke the intervention of the United States; nor does her invitation appear to have been confined to this Government alone. By a telegram from Mr. Beaupré, our minister at Bogota, of the 7th of November last, we were informed that Gen. Reyes would soon leave Panama invested with full powers; that he had telegraphed the President of Mexico to ask the Government of the United States and all countries represented at the Pan-American Conference "to aid Colombia to preserve her integrity;" and that he had requested that the Government of the United States should meanwhile "preserve the neutrality and transit of the Isthmus" and should "not recognize the new Government." In another telegram from Mr. Beaupré, which was sent later in the day, this Government was asked whether it would take action, "to maintain Colombian right and sovereignty on the Isthmus in accordance with article 35 [of] the treaty of 1846" in case the Colombian Government should be "entirely unable to suppress the secession movement there." Here was a direct solicitation to the United States to intervene for the purpose of suppressing, contrary to the treaty of 1846 as this Government has uniformly construed it, a new revolt against Colombia's authority brought about by her own refusal to permit the fulfillment of the great design for which that treaty was made. It was under these circumstances that the United States, instead of using its forces to destroy those who sought to make the engagements of the treaty a reality, recognized them as the proper custodians of the sovereignty of the Isthmus.

This recognition was, in the second place, further justified by the highest considerations of our national interests and safety. In all the range of our international relations, I do not hesitate to affirm that there is nothing of greater or more pressing importance than the construction of an interoceanic canal. Long acknowledged to be essential to our commercial development, it has become, as the result of the recent extension of our territorial dominion, more than

ever essential to our national self-defense. In transmitting to the Senate the treaty of 1846, President Polk pointed out as the principal reason for its ratification that the passage of the Isthmus, which it was designed to secure, "would relieve us from a long and dangerous navigation of more than 9,000 miles around Cape Horn, and render our communication with our own possessions on the northwest coast of America comparatively easy and speedy." The events of the past five years have given to this consideration an importance immeasurably greater than it possessed in 1846. In the light of our present situation, the establishment of easy and speedy communication by sea between the Atlantic and the Pacific presents itself not simply as something to be desired, but as an object to be positively and promptly attained. Reasons of convenience have been superseded by reasons of vital necessity, which do not admit of indefinite delays.

To such delays the rejection by Colombia of the Hay-Herran treaty directly exposed us. As proof of this fact I need only refer to the program outlined in the report of the majority of the Panama canal committee, read in the Colombian Senate on the 14th of October last. In this report, which recommended that the discussion of a law to authorize the Government to enter upon new negotiations should be indefinitely postponed, it is proposed that the consideration of the subject should be deferred until October 31, 1904, when the next Colombian Congress should have met in ordinary session. By that time, as the report goes on to say, the extension of time granted to the New Panama Canal Co. by treaty in 1893 would have expired, and the new Congress would be in a position to take up the question whether the company had not, in spite of further extensions that had been granted by legislative acts, forfeited all its property and rights. "When that time arrives," the report significantly declares, "the Republic, without any impediment, will be able to contract, and will be in more clear, more definite, and more advantageous possession, both legally and materially." The naked meaning of this report is that Colombia proposed to wait until, by the enforcement of a forfeiture repugnant to the ideas of justice which obtain in every civilized nation, the property and rights of the New Panama Canal Co. could be confiscated.

Such is the scheme to which it was proposed that the United States should be invited to become a party. The construction of the canal was to be relegated to the indefinite future, while Colombia was, by reason of her own delay, to be placed in the "more advantageous" position of claiming not merely the compensation to be paid by the United States for the privilege of completing the canal, but also the forty millions authorized by the act of 1902 to be paid for the property of the New Panama Canal Co. That the attempt to carry out this scheme would have brought Colombia into conflict with the Government of France can not be doubted; nor could the United States have counted upon immunity from the consequences of the attempt, even apart from the indefinite delays to which the construction of the canal was to be subjected. On the first appearance of danger to Colombia, this Government would have been summoned to interpose, in order to give effect to the guaranties of the treaty of 1846; and all this in support of a plan which, while characterized in its first stage by the wanton disregard of our own

highest interests, was fitly to end in further injury to the citizens of a friendly nation, whose enormous losses in their generous efforts to pierce the Isthmus have become a matter of history.

In the third place, I confidently maintain that the recognition of the Republic of Panama was an act justified by the interests of collective civilization. If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal. Since our purpose to build the canal was definitely announced, there have come from all quarters assurances of approval and encouragement, in which even Colombia herself at one time participated; and to general assurances were added specific acts and declarations. In order that no obstacle might stand in our way, Great Britain renounced important rights under the Clayton-Bulwer treaty and agreed to its abrogation, receiving in return nothing but our honorable pledge to build the canal and protect it as an open highway. It was in view of this pledge, and of the proposed enactment by the Congress of the United States of legislation to give it immediate effect, that the second Pan American Conference, at the City of Mexico, on January 22, 1902, adopted the following resolution:

The Republics assembled at the International Conference of Mexico applaud the purpose of the United States Government to construct an interoceanic canal, and acknowledge that this work will not only be worthy of the greatness of the American people, but also in the highest sense a work of civilization, and to the greatest degree beneficial to the development of commerce between the American States and the other countries of the world.

Among those who signed this resolution on behalf of their respective Governments was Gen. Reyes, the delegate of Colombia. Little could it have been foreseen that two years later the Colombian Government, led astray by false allurements of selfish advantage, and forgetful alike of its international obligations and of the duties and responsibilities of sovereignty, would thwart the efforts of the United States to enter upon and complete a work which the nations of America, reechoing the sentiment of the nations of Europe, had pronounced to be not only "worthy of the greatness of the American people," but also "in the highest sense a work of civilization."

That our position as the mandatary of civilization has been by no means misconceived is shown by the promptitude with which the powers have, one after another, followed our lead in recognizing Panama as an independent State. Our action in recognizing the new Republic has been followed by like recognition on the part of France, Germany, Denmark, Russia, Sweden and Norway, Nicaragua, Peru, China, Cuba, Great Britain, Italy, Costa Rica, Japan, and Austria-Hungary.

In view of the manifold considerations of treaty right and obligation, of national interest and safety, and of collective civilization, by which our Government was constrained to act, I am at a loss to comprehend the attitude of those who can discern in the recognition of the Republic of Panama only a general approval of the principle of "revolution" by which a given government is overturned or one portion of a country separated from another. Only the amplest justification can warrant a revolutionary movement of either kind. But there is no fixed rule which can be applied to all such movements. Each case must be judged on its own merits. There have

been many revolutionary movements, many movements for the dismemberment of countries, which were evil, tried by any standard. But in my opinion no disinterested and fair-minded observer acquainted with the circumstances can fail to feel that Panama had the amplest justification for separation from Colombia under the conditions existing, and, moreover, that its action was in the highest degree beneficial to the interests of the entire civilized world by securing the immediate opportunity for the building of the inter-oceanic canal. It would be well for those who are pessimistic as to our action in peacefully recognizing the Republic of Panama, while we lawfully protected the transit from invasion and disturbance, to recall what has been done in Cuba, where we intervened even by force on general grounds of national interest and duty. When we interfered it was freely prophesied that we intended to keep Cuba and administer it for our own interests. The result has demonstrated in singularly conclusive fashion the falsity of these prophecies. Cuba is now an independent Republic. We governed it in its own interests for a few years, till it was able to stand alone, and then started it upon its career of self-government and independence, granting it all necessary aid. We have received from Cuba a grant of two naval stations, so situated that they in no possible way menace the liberty of the island, and yet serve as important defenses for the Cuban people, as well as for our own people, against possible foreign attack. The people of Cuba have been immeasurably benefited by our interference in their behalf, and our own gain has been great. So will it be with Panama. The people of the Isthmus, and as I firmly believe of the adjacent parts of Central and South America, will be greatly benefited by the building of the canal and the guaranty of peace and order along its line; and hand in hand with the benefit to them will go the benefit to us and to mankind. By our prompt and decisive action, not only have our interests and those of the world at large been conserved, but we have forestalled complications which were likely to be fruitful in loss to ourselves, and in bloodshed and suffering to the people of the Isthmus.

Instead of using our forces, as we were invited by Colombia to do, for the twofold purpose of defeating our own rights and interests and the interests of the civilized world, and of compelling the submission of the people of the Isthmus to those whom they regarded as oppressors, we shall, as in duty bound, keep the transit open and prevent its invasion. Meanwhile, the only question now before us is that of the ratification of the treaty. For it is to be remembered that a failure to ratify the treaty will not undo what has been done, and will not restore Panama to Colombia, and will not alter our obligation to keep the transit open across the Isthmus, and to prevent any outside power from menacing this transit.

It seems to have been assumed in certain quarters that the proposition that the obligations of article 35 of the treaty of 1846 are to be considered as adhering to and following the sovereignty of the Isthmus, so long as that sovereignty is not absorbed by the United States, rests upon some novel theory. No assumption could be further from the fact. It is by no means true that a state in declaring its independence rids itself of all the treaty obligations entered into by the parent government. It is a mere coincidence that this question was once raised in a case involving the obligations of Colombia as an independent State under a treaty which Spain had

made with the United States many years before Spanish-American independence. In that case Mr. John Quincy Adams, Secretary of State, in an instruction to Mr. Anderson, our minister to Colombia, of May 27, 1823, said:

By a treaty between the United States and Spain concluded at a time when Colombia was a part of the Spanish dominions \* \* \* the principle that free ships make free goods was expressly recognized and established. It is asserted that by her declaration of independence Colombia has been entirely released from all the obligations by which, as a part of the Spanish nation, she was bound to other nations. This principle is not tenable. To all the engagements of Spain with other nations, affecting their rights and interests, Colombia, so far as she was affected by them, remains bound in honor and in justice. The stipulation now referred to is of that character.

The principle thus asserted by Mr. Adams was afterwards sustained by an international commission in respect to the precise stipulation to which he referred; and a similar position was taken by the United States with regard to the binding obligation upon the independent State of Texas of commercial stipulations embodied in prior treaties between the United States and Mexico when Texas formed a part of the latter country. But in the present case it is unnecessary to go so far. Even if it be admitted that prior treaties of a political and commercial complexion generally do not bind a new State formed by separation, it is undeniable that stipulations having a local application to the territory embraced in the new state continue in force and are binding upon the new sovereign. Thus it is on all hands conceded that treaties relating to boundaries and to rights of navigation continue in force without regard to changes in government or in sovereignty. This principle obviously applies to that part of the treaty of 1846 which relates to the Isthmus of Panama.

In conclusion let me repeat that the question actually before this Government is not that of the recognition of Panama as an independent republic. That is already an accomplished fact. The question, and the only question, is whether or not we shall build an Isthmian canal.

I transmit herewith copies of the latest notes from the minister of the Republic of Panama to this Government, and of certain notes which have passed between the special envoy of the Republic of Colombia and this Government.

THEODORE ROOSEVELT.

WHITE HOUSE,  
January 4, 1904.

---

DEPARTMENT OF STATE,  
Washington, January 4, 1904.

The PRESIDENT:

The undersigned, Acting Secretary of State, has the honor to lay before the President copies of the notes exchanged between General Reyes and the Secretary of State concerning this Government's attitude in case Colombian troops should be sent to the Republic of Panama; also copies of two notes addressed to this department by the minister of the Republic of Panama at this capital, the first stating that it is the purpose of the Government of that Republic, as soon as its independence shall have been recognized by the Government of the Republic of Colombia, to assume a portion of the exterior debt of Colombia proportionate to the relative populations

of the two Republics; the second in regard to the method of payment of the \$10,000,000, the payment of which by the United States to Panama is stipulated by the convention concluded between them on November 18, 1903.

Respectfully submitted.

FRANCIS B. LOOMIS,  
*Acting Secretary.*

Inclosures:

From Gen. Reyes, December 8, 1903.

To Gen. Reyes, December 11, 1903.

To Gen. Reyes, December 30, 1903.

From minister of Panama, December 31, 1903, two notes.

---

[Translation.]

LEGATION OF COLOMBIA ON SPECIAL MISSION,  
ARLINGTON HOTEL,  
*Washington, D. C., December 8, 1903.*

MR. SECRETARY: I have the honor to address your excellency for the purpose of stating respectfully that I have received from my Government instructions to inquire what attitude would be assumed by the Government of the United States in the event which may take place of Colombian troops or forces under the Colombian flag making their appearance on the Isthmus, or attempting a landing on that territory, for the defense of the sovereignty and integrity of Colombia, and respecting the railroad line and the terminal points in accordance with the stipulation of the treaty of 1846, which my country is ever ready to observe.

I salute your excellency with my distinguished consideration.

RAFAEL REYES.

Hon. JOHN HAY,  
*Secretary of State of the United States,  
Department of State.*

---

No. 1]

DEPARTMENT OF STATE,  
*Washington, December 11, 1903.*

SIR: I beg leave to acknowledge your communication of December 8, in which you state that you have been directed by your Government to ask "what attitude would be assumed by the Government of the United States in the event, which may take place, of Colombian troops or forces under the Colombian flag making their appearance on the Isthmus, or attempting a landing in that territory for the defense of the sovereignty and integrity of Colombia, and respecting the railroad line and the terminal points, in accordance with the stipulation of the treaty of 1846, which my country is ever ready to observe."

I have quoted your question textually, and in reference to it I am instructed by the President to bring to the attention of your excellency the following facts: That the Republic of Panama proclaimed its independence on the 3d of last month; that in consequence of this movement the independence of Panama has been recognized by this Government and by many others; that a treaty has been signed between the United States and Panama, which has been ratified by the latter State and is now awaiting ratification by the American Senate; that by the provisions of the said treaty the United

States agrees to maintain the independence of the Republic of Panama; that although the treaty has not yet become law by the action of the Senate, there are already inchoate rights and duties created by it which place the responsibility of preserving peace and order on the Isthmus in the hands of the Government of the United States and of Panama, even if such responsibilities were not imposed by the historical events of the last 50 years.

In view of these facts I am instructed to say to your excellency that the Government of the United States would regard with the gravest concern any invasion of the territory of Panama by Colombian troops, for the reason that bloodshed and disorder would inevitably result throughout the whole extent of the Isthmus, and for the broader reason that, in the opinion of the President, the time has come, in the interest of universal commerce and civilization, to close the chapter of sanguinary and ruinous civil war in Panama.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

Gen. RAFAEL REYES, *Etc.*

DEPARTMENT OF STATE,  
*Washington, December 30, 1903.*

DEAR MR. MINISTER: I have received the letter which you have done me the honor to address me under date of yesterday, in which, obeying the instructions of your Government, you ask me to say whether the invasion of the territory of the Republic of Panama by Colombian soldiers will be considered by the United States as a declaration of war.

I beg to remind your excellency that when, on the 8th of December, you addressed a similar question to this department, I replied on the 11th, reciting the following facts:

That the Republic of Panama proclaimed its independence on the 3d of last month; that, in consequence of this movement, the independence of Panama has been recognized by this Government and by many others; that a treaty has been signed between the United States and Panama which has been ratified by the latter State and is now awaiting ratification by the American Senate; that by the provisions of the said treaty the United States agrees to maintain the independence of the Republic of Panama; that although the treaty has not yet become a law by the action of the Senate, there are already inchoate rights and duties created by it which places the responsibility of preserving peace and order on the Isthmus in the hands of the Government of the United States and of Panama, even if such responsibility were not imposed by the historical events of the last 50 years.

I then had the honor to inform you that—

The Government of the United States would regard with the gravest concern any invasion of the territory of Panama by Colombian troops, for the reason that bloodshed and disorder would inevitably result throughout the whole extent of the Isthmus and for the broader reason that, in the opinion of the President, the time has come, in the interest of universal commerce and civilization, to close the chapter of sanguinary and ruinous civil war in Panama.

In reply to your question received yesterday, I can only reiterate what I had the honor to say on the 11th of this month, and to add that the time which has elapsed since then has only tended to deepen the painful impression which would be created in this country by the armed invasion of Panaman territory by Colombian troops, and the sense of the responsibility which would thereby be imposed on the Government of the United States; but that the formal action

we should take upon such a contingency must be determined by the circumstances of the case. I am instructed further to inform you that this Government has only the friendliest intentions toward Colombia, and will not lightly be provoked into assuming a hostile attitude toward that Republic.

I have, etc.,

JOHN HAY.

Gen. RAFAEL REYES, etc.

THE MINISTER OF PANAMA TO THE SECRETARY OF STATE.

THE LEGATION OF THE REPUBLIC OF PANAMA,  
*Washington, D. C., December 31, 1903.*

DEAR SIR: The treaty of the 18th of November, 1903, provides for the payment to the Republic of Panama of the sum of \$10,000,000 after the exchange of ratifications.

The Government of the Republic of Panama has always been anxious to insure a proper and useful employment of said sum. The delegates of the Government, Dr. Amador and Señor Don Frederico Boyd, have repeatedly told me that the principle which the Government intended to carry out for the employment of said sum was not to invest any part of the capital in anything but consistent works which would permanently represent the counter value of the expenses incurred.

According to this principle the Government expressed the desire to take only \$2,000,000 out of the \$10,000,000 from the United States Treasury after exchange of ratifications, leaving the remaining \$8,000,000 in the United States Treasury to be later on employed according to the necessities of the future and to the principle which I explained above.

At the same time the Government desired that this sum should be productive of interest in order to help to obtain the equilibrium of the budget.

According to the recommendations that were made to me by the Government of the Republic, I was requested to ask the Government of the United States if it would accept to pay an interest of 3 per cent on the sum remaining in its hands out of the total sum of \$10,000,000 provided for in the treaty of the 18th of November.

The interest to be paid on the \$8,000,000 that the Government intends now to leave in the American Treasury would be \$240,000. The expression of this desire of my Government came by mail after the signature of the treaty, and I did not feel justified at that moment to call your attention to this point on account of the more important matters which required your attention, but now that the situation has progressed and that the Treasury Department may be considering the measures to be taken in the event of a prompt ratification of the treaty, I feel justified in submitting the case to your excellency, so that if the United States Government thinks the intentions of the Republic of Panama in harmony with its own a special convention may be drafted to settle this particular point.

I am, sir, with great respect, your very obedient servant,

P. BUNAU VARILLA.

His Excellency JOHN HAY,  
*Secretary of State, Washington, D. C.*

THE MINISTER OF PANAMA TO THE SECRETARY OF STATE.

LEGATION OF THE REPUBLIC OF  
PANAMA AT WASHINGTON,  
*Washington, D. C., December 31, 1903.*

DEAR SIR: I have the honor of bringing to your knowledge that by a telegram received during the night of the 21st of December, I have been authorized by my Government to declare that the Republic of Panama, as soon as its independence shall be recognized by the Republic of Colombia, intends to assume a part of Colombia's exterior debt of which the principal was settled at £2,000,000 by special convention and which is now accrued by the unpaid interest. The Republic of Panama has determined that the proportion of that debt it is ready to assume will be equal to the proportion between its population and the population of Colombia, a proportion which is not very far from 1 to 15.

I beg, sir, to call your attention to the fact that the Government of the Republic of Panama, in making such declaration, is actuated by the desire of showing its good faith and its liberality toward the citizens of foreign countries who may think they have a just claim against it rather than by the sentiment that by right they owe any part of the Colombian debt.

The distribution, according to the number of inhabitants of the two Republics, would be just only if it could be established, which is generally the case, that the money has been employed for the common utility of all the parts of the Republic and that Panama has enjoyed its share of it. On the contrary, this distribution is not just and ought not to be made in strict right if, as is the case, no part of the loans were ever employed for the benefit of the State of Panama, now the Republic of Panama. Since its union to greater Colombia, for the liberation of which said loans were made, the State of Panama has never received any money from the mother country, but, on the contrary, it has sent to it very important sums, and one can say, as a rule, that the funds never went from Bogota to Panama, but always from Panama to Bogota. It will be easy to establish that the Department of Panama is the creditor of Colombia and not its debtor and that, therefore, it does not owe to Colombia anything neither for its external debt nor from any other cause.

This would have been a substantial and legal ground for non-assumption of any part of the Colombian debt, but, as I had the honor of stating to you, the Government of the Republic has felt itself bound to justify, not by arguments, but by facts, the testimony of confidence, esteem, and good will which have come from all the governments of the greatest nations of earth since the recent date of its birth.

I am, sir, with great respect, your very obedient servant,

P. BUNAU VARILLA.

His Excellency JOHN HAY,  
*Secretary of State, Washington, D. C.*

## THE ETHICS OF THE PANAMA QUESTION.

[Address by Hon Elihu Root before the Union League Club of Chicago, Feb. 22, 1904.]

On the 3d of November, 1903 the people of Panama revolted against the Government of Columbia, and proclaimed their independence. On the 13th of November the United States recognized the independence of the Republic of Panama, by receiving a minister from the new Government, and at the opening of the regular session of Congress in December the President asked the consent of the Senate to a treaty negotiated between our Secretary of State, Mr. Hay, and the minister of Panama, Mr. Varilla, providing for the construction by the United States of a ship canal across the Isthmus, to be kept by us open, neutral, and free upon equal terms for the use of all mankind. After long and exhaustive discussion that treaty is about to be confirmed. In the meantime the Senate by a great majority has approved the recognition of independence by confirming the nomination of William I. Buchanan as minister from the United States to Panama. The revolutionary leaders have submitted their action to the people of Panama, who have, by a popular vote, given it their unanimous approval, and have elected a constitutional convention, framed and adopted a constitution, chosen a president and congress, and established a republican government according to the forms which find their model in the constitutions of our own country. In the meantime, also, many other governments have followed the United States in receiving the new republic into the family of nations. On the 18th of November, five days after our recognition, France recognized the Republic of Panama; on the 22d China; on the 27th Austria; on the 30th Germany; and following them Denmark, Russia, Sweden and Norway, Belgium, Nicaragua, Peru, Cuba, Great Britain, Italy, Switzerland, Costa Rica, Japan, Guatemala, Netherlands, Venezuela, Portugal, in the order named.

The independence of Panama, the grant to the United States of the right to construct the canal across the Isthmus, and the assumption by the United States of the duty to construct the canal and to maintain it for the equal benefit of mankind, are accomplished facts. Nothing can do away with them, unless it be some future war of conquest waged against the liberties of Panama, and at the same time against the rights of the United States held in trust for the commerce of the world.

The conduct of the United States Government in recognizing the independence of Panama, in making the treaty, and in exercising police power over territory traversed by the Panama Railroad and the partly constructed canal, during the period of the revolution, has been severely criticised by some of our own citizens, who have said, in substance, that in this business our Government has violated the rules of international law, has been grasping and unfair, and has, by the exercise of brute force, trampled down the rights of a weaker nation, in violation of those principles of justice which should control the conduct of nations as of men.

In considering these charges we may well thrust aside as carrying no weight of authority the expressions of those who, while they condemn the conduct of our Government, are in favor of the treaty. They curiously reverse the divine rule, and seem to hate the sinner while they love the sin; and their adverse criticism may fairly be ascribed to the exigencies of the pending presidential campaign. Some of them may be sincere, but upon that question they naturally invite the comment made upon Lady Macbeth, that "she might be a lady, but she did not show it by her conduct."

We need not pay very much heed, either, to that class of temperamental and perennial faultfinders whom we have and always will have with us, as an incident of free institutions, who are against every government of which they do not personally form a part, and in whose eyes everything done by others is wrong. This class of our citizens, with slight changes in personnel, would have condemned any course of conduct by our Government, whatever it was, and their condemnation of the particular course followed merely announces their existence.

Nevertheless, there remain good and sincere men and women who have thought our course to be wrong, and many others, whose character and patriotism entitle them to the highest respect, are troubled in spirit. They would be glad to be sure that our country is not justly chargeable with dishonorable conduct. May the time never come when such men and women are wanting, or are constrained to remain silent, in America. May the time never come when the conscience of America shall cease to apply the rules of upright conduct to national as well as to personal life; when our Government feels absolved from the obligation to answer in that forum for conformity to the rules of right or when material advantage shall be held to excuse injustice. For if such a time ever does come the beginning of the end of our free institutions will have come also.

I wish to present some of the fundamental facts bearing upon the question of right in the Panama business, although they have been stated already better than I can state them, with the hope that they may thus reach the attention of some of the good and sincere citizens who are troubled about the matter.

I am not going to discuss technical rules or precedents or questions whether what was done should have been done a little earlier or a little latter, but the broad question whether the thing we have done was just and fair.

It frequently happens in affairs of government that most important rights are created, modified, or practically destroyed by gradual processes, and by the indirect effect of events; and that only an intimate knowledge of the process enables one to realize the change until some practical question arises which requires everyone interested to study the subject. If the typical New Zealander, ignorant of our political history, were to read our Constitution and laws, he would suppose that a presidential elector in the United States is entitled to exercise freedom of choice in his vote for President, and he would be quite certain that we were guilty of gross injustice in the treatment which we should certainly accord to an elector who voted for anyone but the candidate of his own party. In forming this judgment, he would be misled by the form and appearance of things which he found upon the statute book, and would mis-

judge a people who were acting in accordance with the substance and reality of things as they knew them to be. In the same way, they are in error who assume that the relations of Colombia to the other nations of the earth as regards the Isthmus of Panama were, in truth, of unqualified sovereignty and right of domestic control according to her own will, governed and protected by the rules of international law, which describe the attributes of complete sovereignty; that the relations of Colombia to the people of Panama were, in truth, those appearing in the written instrument called the Constitution of Colombia; or that the rights and duties of the United States in regard to the Isthmus were confined to the simple duty of aiding Colombia to maintain her control over the Isthmus, and the simple right to ask from Colombia privileges which that country was entitled to grant or withhold at her own pleasure.

The stupendous fact that has dominated the history and must control the future of the Isthmus of Panama is the possibility of communication between the two oceans. It is possible for human hands to pierce the narrow 40 miles of solid earth which separate the Caribbean from the Bay of Panama, to realize the dreams of the early navigators, to make the pathway to the Orient they vainly sought, to relieve commerce from the toils and perils of its 9,000 miles of navigation around Cape Horn through stormy seas and along dangerous coasts with its constant burden of wasted effort and shipwreck and loss of life, and to push forward by a mighty impulse that intercommunication between the distant nations of the earth which is doing away with misunderstanding, with race prejudice and bigotry, with ignorance of human rights and opportunity for oppression, and making all the world kin.

Throughout the centuries since Philip II sat upon the throne of Spain, merchants and statesmen and humanitarians and the intelligent masses of the civilized world have looked forward to this consummation with just anticipations of benefit to mankind. No savage tribes who happened to dwell upon the Isthmus would have been permitted to bar this pathway of civilization. By the universal practice and consent of mankind they would have been swept aside without hesitation. No Spanish sovereign could, by discovery or conquest or occupation, preempt for himself the exclusive use of this little spot upon the surface of the earth dedicated by nature to the use of all mankind. No civil society organized upon the ruins of Spanish dominion could justly arrogate to itself over this tract of land sovereignty unqualified by the world's easement and all the rights necessary to make that easement effective. The formal rules of international law are but declarations of what is just and right in the generality of cases. But where the application of such a general rule would impair the just rights or imperil the existence of neighboring States or would unduly threaten the peace of a continent or would injuriously affect the general interests of mankind, it has always been the practice of civilized nations to deny the application of the formal rule and compel conformity to the principles of justice upon which all rules depend. The Danubian principalities and Greece and Crete, and Egypt, the passage of the Dardanelles, and the neutralization of the Black Sea are familiar examples of limitations in derogation of those general rules of international law which describe the sovereignty of nations.

The Monroe doctrine itself upon which we stand so firmly is an assertion of our right for our own interest to interfere with the action of every other nation in those parts of this hemisphere where others are sovereign and where we have no sovereignty or claim of sovereignty, and to say if you do thus and so, even by the consent of the sovereign, we shall regard it as an unfriendly act because it will affect us injuriously. It is said that the Monroe doctrine is not a rule of international law. It is not a rule at all. It is an assertion of a right under the universal rule that all sovereignty is held subject to limitations in its exercise arising from the just interests of other nations.

By the rules of right and justice universally recognized among men and which are the law of nations, the sovereignty of Colombia over the Isthmus of Panama was qualified and limited by the right of the other civilized nations of the earth to have the canal constructed across the Isthmus and to have it maintained for their free and unobstructed passage.

Colombia and her predecessor, New Granada, have not failed at times to recognize their position. In 1846 New Granada, through her secretary of foreign relations, Mr. Mallarino, applied to the Government of the United States to enter into a treaty which should protect that country against the seizure of the Isthmus by other foreign powers. In effect, she acknowledged the right of way and asked the United States to become the trustee of that right which qualified her sovereignty, to maintain it for the equal benefit of all nations, and at the same time to protect her against its exercise by them in such a manner as to destroy her sovereignty altogether. After describing acts which he conceived to be undue encroachments by Great Britain in South America, Mallarino said:

And if the usurpation of the Isthmus in its channelizable portion should be added to these encroachments, the empire of American commerce in its strictly useful or mercantile sense would fall into the hands of the only nation that the United States can consider as a badly disposed rival. It would be perfectly superfluous to mention the political consequences that would be entailed upon America. This dominion or ascendancy would be equally ruinous to the commerce of the United States and to the nationality of the Spanish-American Republics, most direful for the causes of democracy in the New World, and a constant cause of disturbance of the public peace in this our continent.

From these facts and general considerations may be inferred the urgent necessity in which the United States are of interposing their moral influence, and even their material strength, between the weakness of the new Republics and the ambitious views of the commercial nations of Europe. \* \* \* This end is simply and naturally to be obtained by stipulating in favor of the United States a total repeal of the differential duties as a compensation for the obligation they imposed upon themselves of guaranteeing the legitimate and complete or integral possession of those portions of territory that the universal mercantile interests require to be free and open to all nations. \* \* \* When a treaty containing such a stipulation shall exist between New Granada and the United States and it could be completed and perfected by a subsequent and supplementary convention, in which the transit of the interoceanic passage should be arranged and its permanent neutrality confirmed, half the plans of Great Britain would of themselves fail and it would no longer be possible for her to encroach upon the Isthmus.

He said he assumed that the United States would in the proposed treaty—

guarantee to New Granada the Isthmus or at least as much of it as was required for the construction of a canal or railroad upon the most favorable route; and moreover that it was important that this guaranty should appear in the treaty as a condition

for the right of way and the abolition of the discriminating differential duties, otherwise New Granada would be obliged to grant the same privileges unconditionally to England.

And he appealed to the declaration of the Monroe doctrine, reiterated by President Polk to the Congress of 1845-46, as the basis of his request.

Upon this appeal, the treaty of December 12, 1846, between the United States and New Granada, was made and signed in behalf of Colombia by the secretary, Mallarino, whose words I have quoted. The thirty-fifth article of the treaty contained the following provision:

The Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the Government and citizens of the United States. \* \* \* And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantee positively and efficaciously to New Granada by the present stipulation the perfect neutrality of the before-mentioned Isthmus with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists, and in consequence the United States also guarantee in the same manner the rights of sovereignty and property which New Granada has and possesses over the said territory.

In transmitting this treaty to the Senate on the 10th of February, 1847, President Polk made these observations:

1. The treaty does not propose to guarantee a territory to a foreign nation in which the United States will have no common interest with that nation. On the contrary, we are more deeply and directly interested in the subject of this guaranty than the New Granada herself or any other country.
2. The guaranty does not extend to the territories of New Granada generally, but is confined to the single province of the Isthmus of Panama, where we shall acquire, by the treaty, a common and coextensive right of passage with herself.
3. It will constitute no alliance for any political object, but for a purely commercial purpose in which all the navigating nations of the world have a common interest.

You will perceive that in this transaction New Granada recognized the subordination of her sovereignty to the world's easement of passage by railroad or by canal, and, apprehending that other nations might seek to exercise that right through the destruction of her sovereignty and the appropriation of her territory, she procured the United States to assume the responsibility of protecting her against such treatment. The United States assumed that burden and by way of consideration—

First. The United States received an express grant of the right of way which President Polk described as constituting a "common and coextensive right of passage with New Granada herself," and as making the United States "more deeply and directly interested in the subject of this guaranty than New Granada herself or any other country,"

Second. The United States received a grant of power and assumed a duty herself to keep the transit free and uninterrupted and unembarrassed, and to keep the territory of the transit neutral.

The duties assumed by the United States to maintain neutrality and free passage were undertaken for the benefit of all the world. The right to maintain free passage was, however, not merely for the general benefit, but was specifically declared to be "in order to secure

to themselves (the United States) the tranquil and constant enjoyment" of the right of way. The United States assumed the burden of protecting New Granada against an unjust exercise of the world's right of passage. She assumed the correlative duty of safeguarding the just exercise of the world's right of passage, and she acquired for herself a specific grant of the right of way and the power to exercise for her own benefit in that territory the functions of sovereignty which were necessary for the peaceable enjoyment of the interest thus acquired by her.

Both countries have agreed in the construction that this treaty imposed upon the United States no duty toward Colombia to help her put down domestic insurrection. With that form of assault upon the sovereignty of Colombia the United States has had no concern, except when it tended to interfere with free transit, and then the action of the United States has been, not in the exercise of a duty toward Colombia, but in protection of her own rights.

Throughout the half century past since the treaty was made, the United States has been faithful to her obligations. The distinct announcement of her protection and her constantly increasing power have been an adequate barrier against foreign aggression upon the Isthmus. In all the long and monotonous series of revolutions and rebellions in which Colombia from the beginning showed herself wholly incapable of maintaining order, United States sailors and marines have policed the railroad, its terminal cities and its harbors—sometimes by Colombia's request and sometimes without it—prohibiting action sometimes by the forces of the party in power and sometimes by the forces of the party out of power, but always enforcing peace upon the line of transit. In a long and unbroken series of formal binding official declarations by nearly every administration for more than half a century, we have committed our country as a matter of traditional policy to the execution of the trust to protect and control the passage of the Isthmus for the equal uses of all nations.

It will be observed that one effect of the treaty of 1846 was that foreign powers were to be excluded from the opportunity to construct the canal themselves. It followed from this that if private enterprise should fail to build the canal, the United States assumed the obligation to build it herself. We could not play dog in the manger on the Isthmus. We could not refuse to permit the work to be done by anyone else competent to do it and refuse the burden ourselves. The obligation of the United States to build the canal and the obligation of Colombia to permit her to build it both followed necessarily from the relations and obligations assumed by them in the treaty of 1846.

Private enterprise has failed to build the canal. The great French company organized by de Lesseps, after spending and wasting an incredible amount of treasure and after the sacrifice of thousands of lives, has abandoned hope of completing the undertaking. No private company again will grapple with the colossal enterprise. Other nations are excluded from the attempt by the force of our agreement with Colombia. If the canal is to be built, we must build it.

The United States has answered to that obligation. Again upon the request of Colombia, she entered upon the negotiation of the further treaty described by the Granadian secretary, Mallerino, in 1846 as "a subsequent and supplementary convention, in which the transit

of the interoceanic passage should be arranged and its permanent neutrality confirmed."

Colombia stood to profit more by the building of that canal than any other nation upon earth. Her territory stretching across the northwestern end of South America was without internal communication or unity. Her principal towns upon her Atlantic and her Pacific coasts were separated by ranges of lofty mountains not traversed by any railroad, and for the most part without roads of any kind. The building of a canal would, for the first time, establish practical and easy communication between her different Provinces. The work of construction would bring enormous sums to be expended in her territory, and the operation of the canal would set Colombia upon a great highway of the world's commerce with incalculable opportunities for development and wealth. She had acknowledged the world's right to the canal. She had specifically granted the right of way to the United States. She had induced the United States to assume the moral obligation for its construction by excluding all other nations from the Isthmus for her protection. When she came to settle the terms of this "supplementary convention," the detailed arrangements under which this enormous benefit might be conferred upon mankind, and especially upon herself, she demanded to be paid.

Reluctantly, and with a sense that it was an unjust exaction, the United States agreed to pay \$10,000,000 down and \$250,000 per annum in perpetuity—substantially the entire amount exacted by Colombia. We were not going into the enterprise to make money, but for the common good. We did not expect the revenues of the canal to repay its cost, or to receive any benefit from it, except that which Colombia would share to a higher degree than ourselves. Against the hundreds of millions which we were obligating ourselves to expend, Colombia was expected only to permit the use of a small tract of otherwise worthless land already, in substance, devoted to that purpose. We were not seeking a privilege which Colombia was entitled to withhold but settling the method in which the acknowledged right of mankind over a portion of her soil should be exercised, with due regard to her special interests. It was not just that we should pay anything, but it was better to pay than to coerce a weaker nation. The treaty was ratified by the Senate, and forwarded to Bogota. At the same time we arranged that upon the final ratification of the treaty we should pay to the Panama Canal Co. \$40,000,000, the entire appraised value of its work upon the canal, in which it had expended nearly two hundred million dollars. The concessions made in the treaty to the Government of Colombia, however, seemed merely to inspire in that Government a belief that there was no limit to the exactions which they could successfully impose. They demanded a further \$10,000,000 from the Panama Canal Co., and upon its refusal, they rejected the treaty.

This rejection was a substantial refusal to permit the canal to be built. It appears that the refusal contemplated not merely further exactions from us but the spoliation of the canal company. That company's current franchise was limited by its terms to the 31st day of October, 1904. There was an extension for six years granted by the President and for which the company had paid 5,000,000 francs. These patriots proposed to declare the extension void and

the franchise ended and to confiscate the \$40,000,000 worth of property of the company and take from the United States for themselves, in payment for it, the \$40,000,000 we had agreed to pay the company. The report of the committee on which the Colombian senate acted, contained the following:

By the 31st of October of next year—that is to say, when the next Congress shall have met in ordinary session—the extension will have expired, and every privilege with it. In that case, the Republic will become the possessor and owner, without any need of a previous judicious decision and without any indemnity, of the canal itself, and of the adjuncts that belong to it, according to the contracts of 1878 and 1900.

When that time arrives the Republic, without any impediment, will be able to contract and will be in more clear, more definite, and more advantageous possession, both legally and materially. The authorizations which would then be given by the next Congress would be very different from those that would be given by the present one.

By becoming a party to this scheme, we might indeed have looked forward to the time when the appetite of Colombia being satisfied at the expense of the unfortunate stockholders of the French Co., we could proceed with the work; but such a course was too repugnant to the sense of justice that obtains in every civilized community to be for a moment contemplated. We had yielded to the last point, beyond reason and justice, in agreeing to pay for a privilege to which we were already entitled and we could not, with self-respect, submit to be mulcted further. We could negotiate no further. Rejection of the treaty was practically a veto of the canal. Every effort was made to bring Colombia to a realization of what it was that she was doing; the effort was in vain, and on the 31st of October, when the Colombian Congress adjourned, the inchoate treaty had expired by limitation.

The questions presented to the United States by this rejection were of the gravest importance. Lewis Cass, Secretary of State, said in 1858:

The progress of events has rendered the interoceanic route across the narrow portion of Central America vastly important to the commercial world, and especially to the United States, whose possessions extend along the Atlantic and the Pacific coasts, and demand the speediest and easiest modes of communication. While the rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted in a spirit of eastern isolation to close the gates of intercourse on the great highways of the world and justify the act by the pretention that these avenues of trade and travel belong to them and that they choose to shut them, or what is almost equivalent, to encumber them with such unjust relations as would prevent their general use.

The time had apparently come to stand upon this declaration or abandon the canal. The question was, should we submit to be deprived of the canal at the will of Colombia, whose sovereignty was justly subject to the world's right of passage? Should we continue to maintain upon the Isthmus that feeble sovereignty whose existence had depended for half a century upon our protection, in order that it might still bar the way of the world's progress and the exercise of our just rights? Should we prepare to protect that sovereignty in its scheme of spoliation, against the justly indignant protests of France surely coming to the support of the stockholders of the French Canal Co.? Or, should we say to Colombia, you have no right to prevent the construction of this canal; you are bound to

consent to it upon reasonable terms; by your request we have assumed a position in which we are bound to build it for the use of the nations and in which we are entitled to build it for our own interest; and we shall now proceed to build it with due regard for your interests, whether you agree upon the terms and conditions or not.

I think that Secretary Cass answered the question 45 years ago. In Europe a concert of the powers would have made short work of the question. In Central America they would have made short work of it but for the Monroe doctrine, to which New Granada appealed, and the protection which we guaranteed to her under the treaty of 1846. By the assertion of that doctrine and the engagements of that treaty we took the responsibility upon ourselves alone, to do for civilization what otherwise all the maritime powers would have united in requiring; it was for us alone to act; and I have no question that our right and duty were to build the canal, with or without the consent of Colombia.

These were the conditions existing when the revolution of November 3 happened. To an understanding of that revolution a knowledge of the character and history of Panama is essential. Some uninformed persons have assumed that it was merely a number of individual citizens of Colombia living in the neighborhood of the proposed canal who combined to take possession of that part of Colombian territory and set up a Government of their own. No conception could be more inadequate. The Sovereign State of Panama was an organized civil society possessed of a territory extending over 400 miles in length from Costa Rica on the west to the mainland of South America on the east. It had a population of over 300,000, the greater part of whom lived in the western part of the country, toward Costa Rica, and farthest removed from South America. Between the inhabited part of this territory and the inhabited part of Colombia, stretched hundreds of miles of tropical forest so dense as to be impassable by the ordinary traveler, so that there was no communication by land between the two countries. The only intercourse was by long sea voyages, as if Panama were a distant island; and the journey from the Isthmus to the capital of Colombia was longer in time than from the Isthmus to Washington.

Panama was not an original part of Colombia, or of New Granada, but obtained its own independence from Spain and established its own government in November, 1821, and thereafter voluntarily entered the Granadian Confederation. When that confederation was broken up into Venezuela, Ecuador, and New Granada in 1832, Panama remained with New Granada, and so continued until the year 1840, when she again became independent and remained a separate sovereignty until 1842. She then returned to New Granada and remained a part of that country until 1855, when by amendment to the constitution these provisions went into effect:

ARTICLE 1. The territory which comprises the provinces of the Isthmus of Panama, to wit, Panama, Ezuero, Veraguas, and Chiriqui, form a sovereign, federal integral part of New Granada under the name of the State of Panama.

ART. 3. The State of Panama is subject to that of New Granada in the matters which are here mentioned:

1. All matters concerning foreign relations;
2. Organization and service of the regular army and of the marines;
3. Federal finances;
4. Naturalization of foreigners;
5. Official weights, balances, and measures.

ART. 4. In all other matters of legislation and administration, the State of Panama shall legislate freely in the manner it considers proper in accordance with the rules of practice of its own constitution.

Since that time, now nearly 50 years ago, the State of Panama has never voluntarily surrendered her sovereignty. In 1858, in 1860 and 1861, new confederations were formed in which Panama became a contracting party. In 1863 a new constitution was formed, the first two articles of which were as follows:

ARTICLE 1. The sovereign States of Antioquia, Bolivar, Boyaca, Cauca, Cundinamarca, Magdalena, Panama, Santander, and Tolima, created, respectively, by the acts of the 27th of February, 1855, 11th of June, 1856, 13th of May, 1857, 15th of June of the same year, 12th of April, 1861, and 3d of September of the same year, unite and confederate forever, consulting their external security and reciprocal aid, and form a free, sovereign, and independent nation under the name of the "United States of Columbia."

ART. 2. The said States engage to aid and defend themselves mutually against all violence that may injure the sovereignty of the Union or that of the States.

This constitution undertook to distribute general and local powers between the Federal and the State governments upon the principles followed in the Constitution of the United States. But it provided:

ART. 25. Every act of the National Congress or of the executive power of the United States, which shall violate the rights warranted in the 15th article, or attack the sovereignty of the States, shall be liable to abrogation by the vote of the latter expressed by the majority of their respective legislatures.

And it provided that it could be amended only in the following manner:

1. That the amendments be solicited by the majority of the legislatures of the States;

2. That the amendments be discussed and approved in both houses, according to what has been established for the enactment of laws; and

3. That the amendments be ratified by the unanimous votes of the senate of plenipotentiaries, each State having one vote.

It may also be amended by a convention called therefor by the Congress on the application of the whole of the legislatures of the States and composed of an equal number of deputies from each State.

Under this constitution Mr. King, the American minister at Bogota, reported to the Secretary of State at Washington:

The States comprising the Union were vested with absolute and unqualified sovereignty. From them emanated all authority, and without their assent none could be exercised by the Federal functionaries of the Nation.

Under that constitution the sovereign State of Panama lived in confederation with the other States of Colombia for 23 years, until the year 1886. She never legally lost her rights under that constitution, but she was deprived of them in fact by force in the manner which I shall now describe.

In the year 1885 Rafael Nunez, having been elected President of the Confederation of Colombia under the Constitution of 1863, undertook to govern in disregard of constitutional limitations, and was resisted in many parts of Colombia, including Panama. The resistance was overcome, and when that was accomplished Nunez declared "the constitution of 1863 no longer exists." He put Panama under martial law, not during the civil war, but after its close, and appointed a governor of the State. He also appointed governors for the other States in the confederation. He then directed these governors to appoint delegates to a constitutional convention; and the delegates thus appointed framed what is known as the constitution of 1886.

The two delegates appointed to represent Panama in this convention were residents of Bogota. Neither of them had ever resided in Panama, and one of them never had set foot in Panama. The pretended constitution thus framed by the appointees of Nunez was declared to be adopted without compliance with a single one of the requisites prescribed by the constitution of 1863 for its amendment. It robbed the people of Panama of every vestige of self-government. It gave them a governor to be appointed by the President at Bogota, and he, in turn, appointed all the administrative officers of the department. It left to the other States their legislatures, but it took away from Panama its legislature and subjected the Isthmus directly in all things to the legislative authority of the Congress at Bogota. It provided that the President might at any time, in case of civil commotion, declare the public order to be disturbed, and that he should thereupon have authority to issue decrees having the force of legislative enactments. It gave him absolute power over the press and power to imprison or expatriate any citizen at will. It took away the property, the powers, the corporate existence, the civil organization of the State, and placed the property and the lives of its people absolutely under the authority and power of a single dictator in a distant capital with which there was no communication by land, and which it required longer to reach than it did to reach the city of Washington. This pretended constitution was never submitted to the people of Panama for their approval or rejection. It was never consented to by them. Our minister at Bogota, Mr. King, closed his dispatch describing the new instrument with these words:

No generous mind can contemplate the disasters which have befallen this people, or meditate on the ills that may flow from their reckless experiment of violent political change, without feeling a deep sorrow for the pains endured by a weak and long-suffering race, who mourn the destruction of their chartered rights as the loss of a cherished freedom that must be recovered at the cost of every peril.

In an address made by President Nunez to this convention of his own appointees he indicated clearly the way in which he proposed to make the new constitution effective in Panama. He said:

To what has been stated is added the necessity of maintaining for some time a strong army which shall serve as a material support to the acclimatization of peace which can not be produced instantaneously by a system of government little in harmony with the defective habits acquired in so many years of error. The State of Panama alone requires a large and well-paid garrison, in order that acts may not again occur endangering our sovereignty; without such precaution excluding the most certain one, which is the prudent cultivation of our relations with the North American Government, which has just given us clear evidence of its good faith.

The evidence of good faith to which he referred was that our armed forces had just turned the Isthmus over from the control of the troops of Panama to the control of the troops of Nunez; and the meaning was that he intended to hold the people of Panama subject by force of arms and the aid of the United States.

In May, 1886, our consul at Panama reported to the State Department:

The people of the Isthmus are ground down by excessive taxation, and they fear to acquire property lest they shall not only be robbed by the tax gatherers but also imprisoned to cloak the robbery under a false charge. At the present time the revenue derived from the cities of Panama and Colon and intermediary villages is at the rate of \$1,000,000 a year. Not one-tenth of this revenue is spent for the benefit of the people. It is used to keep the forces to keep them in subjection.

On the 24th of December, 1886, four months after the promulgation of the constitution, he reported:

Three-fourths of the people of this Isthmus desire separation and the independence of the extinguished State of Panama. They feel but little more affection for the Governor at Panama than the Poles did forty years ago for their masters at St. Petersburg. They would revolt if they could get arms and if they felt that the United States would not interfere.

A signed article published in December last in the newspaper *El Relator* of Bogota sums up the story of oppression and spoliation under which the people of Panama have suffered during these recent years. The facts which the writer states appear also spread at large in numerous reports upon the files of our State Department. He says:

When the Isthmus in 1821 had sealed its independence and had incorporated itself spontaneously to great Colombia, undoubtedly it had the conviction that we would not annul its rights and its liberty as a nation; it thought that we would always respect the integrity of its own government. Whether we have betrayed or not the confidence that the Isthmians had in our country, the history of the last 20 years and the work of inequity and spoiling realized in Panama will answer.

We have converted the lords and masters of that territory in pariahs of their native soils. We have cut off their rights and suppressed all their liberties unexpectedly. We have robbed them of the most precious faculty of a free people—that of electing their mandataries; their legislators, their judges.

We have restricted for them the right of suffrage; we have falsified the count of votes; we have made prevalent over the popular will the will of a mercenary soldiery and that of a series of employees entirely strange to the interests of the department; we have taken away from them the right of law making, and as a compensation we have put them under the iron yoke of exceptional laws; State, provinces, and municipalities have lost entirely the autonomy which they were enjoying formerly. \* \* \*

In towns of a cosmopolitan character of the Isthmus, we did not found any national schools where children could learn our religion, our language, our history, and how to love their country. In the face of the world, we have punished with imprisonment, with expulsion, with fines, and whippings the writers for the innocent expression of their thought. Since December, 1884, to October, 1903, the presidents, governors, secretaries, prefects, mayors, chiefs of police, military chiefs, officials, and soldiers, inspectors of police, the police itself, captains and surgeons of harbors, magistrates, judges of all descriptions, state attorneys—everybody came from the high plains of the Andes and from other parts of the Republic to impose on the Isthmus the will, the law, or the whims of the more powerful, to sell justice or speculate with the treasury. This series of employees, similar to an octopus with its multiple arms, was sucking the blood of an oppressed people and was devouring what only the Panamans had right to devour. We have made of the Isthmus a real military province, and when this nation of 350,000 souls had men of Continental reputation like Justo Arosemana; legislators of the first order and of an irresistible popularity like Pablo Arcsemana and like Gil Colunje; men of talent like Ardila; brilliant diplomats like Hurtado; and scientific celebrities of European reputation like Sosa, we leave them aside, we relegate them in contempt and in forgetfulness instead of putting them at the head of the Isthmus, in order to quench the thirst of equity and justice and satisfy the legitimate aspirations of all the Panamans. Such a way of proceeding has wounded the pride, the dignity, and the patriotism of all the intellectual people of the Isthmus, and has provoked and developed the hatred and the anger of the popular mass.

The people of Panama fought to exhaustion in 1885 to prevent the loss of their liberty and they were defeated through the action of the naval forces of the United States. Three times since then they have risen in rebellion against their oppressors.

In 1895 they arose and were suppressed by force; in 1899 they arose again and for three years maintained a war for liberation, which ended in 1902 through the interposition of the United States by armed force. The rising of November, 1903, was the fourth attempt of this people to regain the rights of which they had been deprived by the usurpation of Nunez. The rejection of the

canal treaty by the Bogota Congress was the final and overwhelming injury to the interests of Panama; the conclusive evidence of indifference to her welfare and disregard of her wishes; and it also created the opportunity for success in her persistent purpose to regain civil liberty; for it was plain that under the strained relations created by that rejection, the United States naturally would not exercise her authority again upon the Isthmus, as she had exercised it before, to aid the troops of Colombia. She was under no obligation to do so, and she could not do so without aiding in the denial of her own rights and the destruction of her own interests. Upon that the people of Panama relied in their last attempt, and they relied upon it with reason.

In the meantime there had been a curious grafting of usurpation upon usurpation at Bogota. In 1898 M. A. Sanclemente was elected President, and J. M. Maroquin, vice president, of the Republic of Colombia. It is true that there was no freedom of election. Our minister had reported of a preceding election: "None but the soldiers, police, and employees of the Government voted, thus making the victory of the Government complete;" but there was a form of election, and Sanclemente became the only president there was, and Maroquin the vice president. Article 24 of the constitution of 1886 provided:

The vice president of the republic shall perform the duties of the executive office during the temporary absence of the President. In case of the permanent absence of the President, the vice president shall occupy the office of the President during the balance of the time for which he was elected.

On the 31st of July, 1900, the vice president, Maroquin, executed a coup d'état by seizing the person of the President, Sanclemente, and imprisoning him at a place a few miles outside of Bogota. Maroquin thereupon declared himself possessed of the executive power because of the absence of the President. He then issued a decree that public order was disturbed, and, upon that ground, assumed to himself legislative power under another provision of the constitution which I have already cited. Thenceforth, Maroquin, without the aid of any legislative body, ruled as the supreme executive, legislative, civil, and military authority in the so-called Republic of Colombia. The absence of Sanclemente from the capital became permanent by his death in prison in the year 1902. When the people of Panama declared their independence in November last, no Congress had sat in Colombia since the year 1898, except the special Congress called by Maroquin to reject the canal treaty, and which did reject it by a unanimous vote, and adjourned without legislating on any other subject. The constitution of 1886 had taken away from Panama the power of self-government and vested it in Colombia. The coup d'état of Maroquin took away from Colombia herself the power of government and vested it in an irresponsible dictator.

The true nature of the government against which Panama rebelled is plainly shown by the proposals to the United States by the Bogota government upon receipt of the first news of the revolution. On the 6th of November the United States minister at Bogota, Mr. Beaupré, telegraphed to Mr. Hay:

Knowing that the revolution has already commenced in Panama, General Reyes says that if the Government of the United States will land troops to preserve Colombian sovereignty and the transit of the Isthmus, if requested by the chargé d'affaires of Colombia, this Government will declare martial law and by virtue of vested constitutional authority, when public order is disturbed, will approve by decree the ratification of

the canal treaty as signed; or, if the Government of the United States prefers, will call extra session of Congress with new and friendly members next May to approve the treaty.

On the 7th of November Mr. Beaupré telegraphed to Mr. Hay:

Gen. Reyes leaves next Monday for Panama invested with full powers. He has telegraphed chiefs of the insurrection that his mission is to the interests of Isthmus. He wishes answer from you before leaving to the inquiry in my telegram of yesterday, and wishes to know if the American commander will be ordered to cooperate with him and with new Panama government to arrange peace and the approval of Canal Treaty, which will be accepted on condition that the integrity of Colombia be preserved. He has telegraphed President of Mexico to ask the Government of the United States and all the countries represented at the Pan-American Conference to aid Colombia to preserve her integrity. The question of the approval of the treaty mentioned in my telegram yesterday will be arranged in Panama; he asks that before taking definite action you will await his arrival there, and that the Government of the United States in the meantime preserve the neutrality and transit of the Isthmus, and do not recognize the new Government.

The Gen. Reyes of these dispatches is now the President-elect of Colombia. Upon reading them who can fail to see that there was no constitutional government in Colombia; that no government of law protected the people of Panama and their interests against the will of an arbitrary and foreign power; that the deliberations and unanimous action of the special Congress at Bogota had been a sham and a pretence; that Panama's rights; that the rights of the United States; that the world's rights to the passage of the Isthmus had been the subject of disingenuous juggling at the hands of successful adventurers and not of the fair expression of a free nation's will.

When these dispatches were received the die was not cast on the Isthmus; the United States had not recognized the new Republic of Panama; she had assumed no obligations toward the leaders of the new movement or toward their followers; Colombia and Panama then both held out to us the offer of the right and opportunity to build the canal. Colombia said, "We will ratify the treaty—we will ratify it by decree, or we will call a Congress selected for the purpose of ratifying the treaty as the preceding Congress was selected for the purpose of rejecting it—if you will preserve our integrity." Panama said, "Recognize our independence, and the treaty follows of course, for the building of the canal is our dearest hope." There was no question of interest on the part of the United States; the treaty was secure; the canal was secure; but there was a question of right, a question of justice, a question of national conscience to be dealt with. What was the duty of the United States toward the people of Panama and the dictator at Bogota?

The people of Panama were the real owners of the canal route; it was because their fathers dwelt in the land, because they won their independence from Spain, because they organized a civil society there that it was not to be treated as one of the waste places of the earth. They owned that part of the earth's surface just as much as the State of New York owns the Erie Canal. When the sovereign State of Panama confederated itself with the other States of Colombia under the constitution of 1863 it did not part with its title or its substantial rights, but constituted the Federal Government its trustee for the representation of its rights in all foreign relations, and imposed upon that Government the duty of protecting them. The trustee was faithless to its trust; it repudiated its obligations without the consent

of the true owner; it seized by the strong hand of military power the rights which it was bound to protect; Colombia itself broke the bonds of union and destroyed the compact upon which alone depended its right to represent the owner of the soil. The question for the United States was, Shall we take this treaty from the true owner or shall we take it from the faithless trustee, and for that purpose a third time put back the yoke of foreign domination upon the neck of Panama, by the request of that Government which has tried to play toward us the part of the highwayman? There was no provision of our treaty with Colombia which required us to answer to her call, for our guaranty of her sovereignty in that treaty relates solely to foreign aggression. There was no rule of international law which required us to recognize the wrongs of Panama or the justice of her cause, for international law does not concern itself with the internal affairs of States. But I put it to the conscience of the American people who are passing judgment upon the action of their Government, whether the decision of our President and Secretary of State and the Senate was not a righteous decision.

By all the principles of justice among men and among nations that we have learned from our fathers and all peoples and all governments should maintain, the revolutionists in Panama were right, the people of Panama were entitled to be free again, the Isthmus was theirs and they were entitled to govern it; and it would have been a shameful thing for the Government of the United States to return them again to servitude.

It is hardly necessary to say now that our Government had no part in devising, fomenting, or bringing about the revolution on the Isthmus of Panama. President Roosevelt said in his message to Congress of January 4, 1904:

I hesitate to refer to the injurious insinuations which have been made of complicity by this Government in the revolutionary movement in Panama. They are as destitute of foundation as of propriety. The only excuse for my mentioning them is the fear lest unthinking persons might mistake for acquiescence the silence of mere self-respect. I think proper to say, therefore, that no one connected with this Government had any part in preparing, inciting, or encouraging the late revolution on the Isthmus of Panama, and that save from the reports of our naval and military officers, given above, no one connected with this Government had any previous knowledge of the revolution except such as was accessible to any person of ordinary intelligence who read the newspapers and kept up a current acquaintance with public affairs.

The people of the United States, without distinction of party, will give to that statement their unquestioning belief.

All the world knew that there would be a rising by the people of Panama if the Colombian Congress adjourned without approving the treaty, as it did adjourn on the 31st of October. The newspapers of the United States were filled with statements to that effect, and our State and Navy Departments could not fail to be aware of it. They took the same steps they had always taken under similar circumstances to have naval vessels present to keep the transit open and protect American life and property. If any criticism is to be made upon their course, it is that there was too little rather than too much prevision and preparation. There was no naval vessel of the United States at the City of Panama, and there were no armed forces of the United States there when the rising occurred. There was one small vessel at Colon which was able to land a force of 42 marines and blue-jackets; that was the entire force which the United States had on

the Isthmus at the time of the revolution. They were landed at Colon as our troops had many times before been landed, and they were landed under these circumstances: On the morning of November 3, the day of the rising at Panama, about 450 Colombian troops landed at Colon and their two generals proceeded by rail to the City of Panama, where they were arrested and placed in confinement by the insurgents, who had been joined by all the Colombian troops on the Isthmus except the 450 just landed, and who had a force of 1,500 men under arms. On the morning of the next day, the 4th of November, the remaining commander of this body of Colombian troops in Colon sent a notice to the American consul that if the officers who had been arrested by the insurgents in Panama the evening before were not released by 2 o'clock p. m. he would open fire on the town of Colon and kill every United States citizen in the place. There was then no American armed force of any description on the soil of the Isthmus. The *Nashville* was in the harbor. The American consul appealed to the commander of the *Nashville* for protection, and he landed the 42 marines and bluejackets. They took possession of the shed of the Panama Railroad Co., a stone building capable of defense, collected there the American men residing in Colon, sent the American women and children on board of a Panama Railroad steamer and a German steamer which were lying at the dock, and prepared to receive the threatened attack. The building was surrounded by the Colombian troops, and for an hour and a half this little force stood to its arms ready to fire and expecting to receive the threatened and apparently intended attack of ten times their number. Then cooler judgment prevailed with the Colombian officers, and the tension was relieved. On the following day a renewal of the threatening attitude of the Colombian troops led to a reoccupation of the railroad shed and a return of the women and children to the steamers; but again the danger passed without conflict; and on the evening of the second day, the 5th of November, after conferences with the insurgent leaders, in which the American officers took no part, the Colombian troops boarded a Colombian ship and sailed away from the harbor of Colon, leaving no Colombian force on the Isthmus. The commander of the *Nashville* closes his report of these occurrences in these words:

I beg to assure the department that I had no part whatever in the negotiations that were carried on between Col. Torres and the representatives of the provisional government; that I landed an armed force only when the lives of American citizens were threatened, and withdrew this force as soon as there seemed to be no ground for further apprehension of injury to American lives and property; that I relanded an armed force because of the failure of Col. Torres to carry out his agreement to withdraw and announced intention to return; and that my attitude throughout was strictly neutral as between the two parties, my only purpose being to protect the lives and property of American citizens and to preserve the free and uninterrupted transit of the Isthmus.

Objection has been made that owing to American direction the Panama Railroad Co. refused to transport the 450 Colombian soldiers to Panama to attack the 1,500 insurgents in arms there, and that the officers of the American Government were directed to prevent any troops of either party from making the line of the railroad the theater of hostilities; but this was no new policy devised or applied for this occasion; and it was impartial as to both parties to the controversy. The insurgents were anxious that the transportation should be given, for they outnumbered the Colombians more than three to one, and

when it was refused they asked for transportation for themselves to attack the Colombians in Colon, and that was refused. The year before a communication had been sent to the Commander of the Colombian forces and the commander of the insurgent forces on the Isthmus in these words:

U. S. S. "CINCINNATI," September 19, 1902.

DEAR SIR:—I have the honor to inform you that the United States naval forces are guarding the railway trains and the line of transit across the Isthmus of Panama from sea to sea, and that no persons whatever will be allowed to obstruct, embarrass, or interfere in any manner with the trains or the route of transit. No armed men except forces of the United States will be allowed to come on or use the line.

All of this is without prejudice or any desire to interfere in domestic contentions of the Colombians.

Please acknowledge receipt of this communication.

With assurances of high esteem and consideration, I remain,

Very respectfully,

T. C. McLEAN,

*Commander, United States Navy, Commanding.*

The policy embodied in this official notice of 1902 was the same policy followed in November, 1903, and none other; it was the outcome of the experience gained during the long course of warfare and the painful experience of property destroyed and traffic suspended, which showed that if the rights of the United States on the Isthmus of Panama were to be protected they must be protected by the United States itself insisting that its right of way should not be made the field of battle, as it had been in 1885, when Colon was burned with the railroad terminals and wharves, when Panama was captured, track was torn up, cars were broken open, telegraph wires were cut and armored trains were a necessity. The warrant for the execution of that policy is the right of self-protection. The things done by our officers might not have been permissible in the territory of a country of strong and orderly government possessing and exercising the power to prevent lawless violence and to protect the lives and property of citizens and foreigners alike; but action of this character is, according to the universal rules obtaining among civilized nations, not only permissible, but a duty of the highest obligation in countries whose feeble governments exercise imperfect control in their own territory and fail to perform the duties of sovereignty for the protection of life and property. The armed force of American sailors who during the past few weeks have been protecting American life and property in the friendly capital of Korea have not been making war upon that power. The expeditionary force which marched to Peking under Chaffee in the summer of 1900, and carrying the capital of China by assault, rescued the resident of the American legation, was not making war upon that nation, which relies with just confidence upon our constant friendship. In that category of incapacity to protect the rights of others, Colombia has placed herself as to the Isthmus of Panama by the record of the past years. She could not maintain order upon the Isthmus because she did not seek to maintain justice; she could not command respect for her laws because she had abandoned the rule of law and submitted to the control of an arbitrary dictator. The right of self-protection for American interests rested upon these facts emphasized and enforced by the grant of power in the treaty of 1846, and by Colombia's own appeals to the American Government to intervene for the maintenance of order.

It was not the neutral force of 42 marines and bluejackets, or anything that the American Government or American officers said or did, that led the 450 Colombians to retire from Colon; it was the fact that they found themselves alone among a hostile and unanimous people with an overwhelming insurgent force in arms against them which left no alternative but capture or retreat. The recognition of independence and the treaty with Panama are the real grounds of Colombia's complaint, and upon the justice of those acts America stands, fairly, openly, with full disclosure of every step taken and every object sought.

Upon the firm foundation of that righteous action, with the willing authority of the lawful owners of the soil, we will dig the canal, not for selfish reasons, not for greed of gain, but for the world's commerce, benefiting Colombia most of all. We shall not get back the money we spend upon the canal any more than we shall get back the money we have expended to make Cuba a free and independent Republic, or the money we have expended to set the people of the Philippines on the path of ordered liberty and competency for self-government. But we shall promote our commerce, we shall unite our Atlantic and Pacific coasts, we shall render inestimable service to mankind, and we shall grow in greatness and honor and in the strength that comes from difficult tasks accomplished and from the exercise of the power that strives in the nature of a great constructive people.

## HOW THE UNITED STATES ACQUIRED THE RIGHT TO DIG THE PANAMA CANAL.

[Editorial from the Outlook of October 7, 1911, by Theodore Roosevelt.]

No other great work now being carried on throughout the world is of such far-reaching and lasting importance as the Panama Canal. Never before has a work of this kind on so colossal a scale been attempted. Never has any work of the kind, of anything approaching the size, been done with such efficiency, with such serious devotion to the well-being of the innumerable workmen, and with a purpose at once so lofty and so practical. No three men in the service of any Government anywhere represent a higher, more disinterested, and more efficient type than the three men now at the head of this work—the Secretary of War, Mr. Stimson; Col. Goethals, the man who is actually doing the digging; and Dr. Gorgas, who has turned one of the festering pestholes of the world into what is almost a health resort. In eighteen months or so the canal will probably be in a shape that will warrant sending small vessels through it to test its actual working. Under these circumstances, it is worth while to remember just how it was that America won for itself and the world the right to do a world job which had to be done by some one, and the doing of which by anyone else would have been not merely a bitter mortification but a genuine calamity to our people.

On December 7, 1903, and again on January 4, 1904, as President of the United States, in messages to the two Houses of Congress, I set forth in full and in detail every essential fact connected with the recognition of the Republic of Panama, the negotiation of a treaty with that Republic for building the Panama Canal, and the actions which led up to that negotiation—actions without which the canal could not have been built, and would not now have been even begun. Not one important fact was omitted, and no fact of any importance bearing upon the actions or negotiations of the representatives of the United States not there set forth has been, or ever will be, discovered, simply because there is none to discover. It must be a matter of pride to every honest American, proud of the good name of his country, that the acquisition of the canal and the building of the canal, in all their details, were as free from scandal as the public acts of George Washington and Abraham Lincoln.

The facts were set forth in full at the time in the two messages to which I have referred. I can only recapitulate them briefly, and in condensed form. Of course there was at the time, and has been since, much repetition of statements that I acted in an "unconstitutional" manner, that I "usurped authority" which was not mine. These were the statements that were made again and again in reference to almost all I did as President that was most beneficial and most important to the people of this country, to whom I was responsible, and of whose interests I was the steward. The simple fact was, as I have elsewhere said, that when the interest of the American people imperatively demanded that a certain act should be done, and I had

the power to do it, I did it unless it was specifically prohibited by law, instead of timidly refusing to do it unless I could find some provision of law which rendered it imperative that I should do it. In other words, I gave the benefit of the doubt to the people of the United States, and not to any group of bandits, foreign or domestic, whose interests happened to be adverse to those of the people of the United States. In my judgment, history had taught the lesson that the President has very great powers if he chooses to exercise those powers; but that, if he is a timid or selfish man, afraid of responsibility and afraid of risks, he can of course manufacture ingenious excuses for failure to exercise them. At a great crisis in American history Mr. Buchanan had shown himself to belong to the latter type of President; Mr. Lincoln had represented the other type, the type which gave the people the benefit of the doubt, which was not afraid to take responsibility, which used in large fashion for the good of the people the great powers of a great office. I very strongly believed that Abraham Lincoln had set the example which it was healthy for the people of the United States that their President should follow.

For many years prior to 1903 our Government had been negotiating with foreign powers to provide for the building of a Panama Canal. By 1902, on the conclusion of the Hay-Pauncefote treaty, we had cleared the way sufficiently to enable Congress to pass an act actually providing for the construction of a canal across the Isthmus. By this act the President was authorized to secure for the United States the property of the French Panama Canal Co. and the perpetual control of a strip of territory across the Isthmus of Panama from the Republic of Colombia within a reasonable time and at a reasonable price, and, if the endeavor failed, the adoption of the Nicaragua route was authorized.

In October and November, 1903, events occurred on the Isthmus of Panama which enabled me, and which made it my highest duty to the people of the United States, to carry out the provisions of the law of Congress. I did carry them out, and the canal is now being built because of what I thus did. It is also perfectly true that, if I had wished to shirk my responsibility, if I had been afraid of doing my duty, I could have pursued a course which would have been technically defensible, which would have prevented criticism of the kind that has been made, and which would have left the United States no nearer building the canal at this moment than it had been for the preceding half century. If I had observed a judicial inactivity about what was going on at the Isthmus, had let things take their course, and had then submitted an elaborate report thereon to Congress, I would have furnished the opportunity for much masterly debate in Congress, which would now be going on—and the canal would still be 50 years in the future.

The interests of the American people demanded that I should act just exactly as I did act; and I would have taken the action I actually did take even though I had been certain that to do so meant my prompt retirement from public life at the next election, for the only thing which makes it worth while to hold a big office is taking advantage of the opportunities the office offers to do some big thing that ought to be done and is worth doing.

Under the terms of the act the Government finally concluded a very advantageous agreement with the French Canal Co. The French

Co. had spent enormous sums on the Isthmus. We felt justified in paying the company only a very small fraction of what it had thus spent. The treaty we made was advantageous to us in a very high degree, and we got what in value was much more than what we paid for it; but the French Co. did get something, and if we had not stepped in it would have gotten absolutely nothing. Every step taken by the Government in connection with its negotiations with the French Co. and the payment to its official representatives in accordance with the agreement entered into was taken with the utmost care, and every detail has been made public. Every action taken was not merely proper, but was carried out in accordance with the highest, finest, and nicest standards of public and governmental ethics. Doubtless in Paris, and perhaps to a lesser extent in New York, there were speculators who bought and sold in the stock market with a view to the varying conditions apparent from time to time in the course of the negotiations, and with a view to the probable outcome of the negotiations. This was precisely what speculators did in England in connection with the outcome of the Battle of Waterloo, and in our own country in connection with Abraham Lincoln's issuance of the emancipation proclamation and other acts during the Civil War. The rights of the French Co. having been acquired, and the difficulties caused by our previous treaties having been removed by the Hay-Pauncefote treaty, there remained only the negotiations with the Republic of Colombia, then in possession of the Isthmus of Panama. Under the Hay-Pauncefote treaty it had been explicitly provided that the United States should build, control, police, and "protect" (with incidentally means to fortify) the canal. The United States thus assumed complete responsibility for, and guaranteed the building of, the canal. Nearly 50 years before, our Government had announced that it would not permit the country in possession of the Isthmus "to close the gates or interfere" with opening one of the "great highways of the world," or to justify such an act by the pretension that this avenue of trade and travel belonged to that country and that it chose to shut it. We had always insisted upon the doctrine thus declared, and at last the time had come when I could reduce it to action. We negotiated with the representatives of Colombia a treaty for building the canal, a treaty which granted to Colombia even greater advantages than were subsequently granted to the Republic of Panama, a treaty so good that after it had been rejected by Colombia, and after we had recognized Panama, Colombia clamored for leave to undo the past and enter into the treaty. But the Colombian Government, for reasons which, I regret to say, were apparently very bad indeed, declined to consummate the treaty to which their representatives had agreed. The Isthmus of Panama was then a part of the Colombian Republic, and the representatives of Panama in the Colombian legislature at once warned Colombia that the people of Panama would not submit quietly to what they regarded as an utter ignoring of their vital interests. We also, courteously and diplomatically, but emphatically, called the attention of the Colombia representatives to the very serious trouble they were certain to bring upon themselves if they persisted in their action. I felt very strongly that the position that the one-time Secretary of State, Cass, had taken nearly 50 years before was the proper position, and that the United States would be derelict to its duty if it permitted

Colombia to prevent the building of the Panama Canal. I was prepared, if necessary, to submit to Congress a recommendation that we should proceed with the work in spite of Colombia's opposition, and indeed had prepared a rough draft of a message to that effect, when events on the Isthmus took such shape as to change the problem.

The Isthmus was seething with revolutionary spirit. The central government of the Republic of Colombia was inefficient and corrupt. Lawlessness had long been dominant in every branch. During a period of something like 70 years there had been only one or two instances in which a president had served out his term. The Republic had repeatedly undergone internal convulsions which completely changed its aspect. Our Government first entered into a treaty with the possessors of the Isthmus of Panama in 1846. At that time the nation with which we treated was known as New Granada. After a while New Granada split up and the Republic of Colombia, another confederation, took its place; and Panama was at one time a sovereign state and at another time a mere department of the consecutive confederations known as Colombia and New Granada. In addition to scores of revolutions which affected successively New Granada and Colombia as a whole, the Isthmus of Panama during 57 years saw 53 revolutions, rebellions, insurrections, civil wars, and other outbreaks, some of the revolutions being successful, some unsuccessful, one civil war lasting nearly three years and another nearly a year. Twice there had been attempted secessions of Panama, and on six different occasions the marines and sailors from United States warships were forced to land on the Isthmus in order to protect property and to see that transit across the Isthmus was kept clear, a duty we were by treaty required to perform, for by treaty we already possessed and exercised on the Isthmus certain proprietary rights and sovereign powers which no other nation possessed. On four different occasions the Government of Colombia itself requested the landing of troops to protect its interests and to maintain order on the Isthmus—the order which it was itself incompetent to maintain. On several different occasions only the attitude of the United States prevented European powers from interfering on the Isthmus. In short, Colombia had shown itself utterly incompetent to perform the ordinary governmental duties expected of a civilized State; and yet it refused to permit the building of the canal under conditions which would have perpetuated its control of the Isthmus and which would at the same time have put a stop to what can legitimately be called government by a succession of banditti. The United States would have shown itself criminal, as well as impotent, if it had longer tolerated this condition of things.

I was prepared to advocate our openly avowing that the position had become intolerable, and that, in pursuance of our duty to ourselves as well as to the world, we should begin the building of the canal. But my knowledge—a knowledge which, as regards most of the essential points, was shared by all intelligent and informed people—of the feeling on the Isthmus was such that I was quite prepared to see the people of the Isthmus themselves act in such a way as to make our task easier. They felt that it was of vital importance to them to have the canal built, for they would be its greatest beneficiaries; and therefore they felt such bitter indignation at

Colombia's indifference to their interests and refusal to permit the fruition of their hopes that among them there was a literally unanimous desire for independence. Not only was there not a single man on the Isthmus who wished to perpetuate Colombian control, but all Colombians sent hither, even the soldiers, after a very short residence grew to share the desire of all Panamans for the establishment of a separate republic. Hitherto the knowledge that the United States would interfere to stop all disturbances on the Isthmus that interrupted traffic across it had resulted to the benefit of Colombia, and it was this knowledge that had been the chief preventive of revolutionary outbreak. The people of Panama now found themselves in a position in which their interests were identical with the interests of the United States, for the Government of Colombia, with elaborate care, and with a shortsightedness equal to its iniquity, had followed out to its end the exact policy which rendered it morally impossible as well as morally improper for the United States to continue to exercise its power in the interest of Colombia and against its own interest and the interest of Panama. There was no need for any outsider to excite revolution in Panama. There were dozens of leaders on the Isthmus already doing their best to excite revolution. It was not a case of lighting a fuse that would fire a mine—there were dozens of such fuses being lit all the time; it was simply a case of its ceasing to be the duty of the United States to stamp on these fuses, or longer to act in the interest of those who had become the open and malignant foes of the United States—and of civilization and of the world at large.

Every man who read the newspapers knew that with the failure of Colombia to ratify the Hay-Herran treaty, revolutionary attempts became imminent on the Isthmus. The papers published on the Isthmus themselves contained statements that these revolutions were about to occur, and these statements were published in the Washington and New York and New Orleans papers. From these published statements it appeared that if the canal treaty fell through, a revolution would in all probability follow, that hundreds of stacks of arms were being imported, that the Government forces in Panama and Colon were themselves friendly to the revolution, and that there were several distinct and independent centers of revolutionary activity on the Isthmus. It was also announced that the Government at Colombia was hurrying preparations to send troops to Panama to put down the revolution. Of course I did not have to rely merely upon what I saw in the newspapers. From various sources I had gathered enough to satisfy me that the situation was at least as bad as the papers depicted it. Through two Army officers who had visited the Isthmus in September I gained concrete and definite information. They informed me that, owing to the dissatisfaction because of the failure of Colombia to ratify the Hay-Herran treaty, a revolution was certain to break out on the Isthmus, and that the people were in favor of it, and that it might be expected immediately on the adjournment of the Colombian Congress without ratification of the treaty. In response to my questioning they said they were certain that a revolution—several different revolutionary movements were being planned independently of one another—would occur immediately after the adjournment of the Colombian Congress in October; while on the Isthmus they had calculated that it would not occur until after October 20, because not

until then would a sufficient quantity of arms and munitions have been landed to supply the revolutionaries. Acting in view of all these facts, I sent various naval vessels to the Isthmus. The orders to the Americal naval officers were to maintain free and uninterrupted transit across the Isthmus, and, with that purpose, to prevent the landing of armed forces with hostile intent at any point within 50 miles of Panama. These orders were precisely such as had been issued again and again in preceding years—1900, 1901, and 1902, for instance. They were carried out. Their necessity was conclusively shown by the fact that a body of Colombian troops had landed at Colon and threatened a reign of terror, announcing their intention of killing all the American citizens in Colon. The prompt action of Capt. Hubbard, of the gunboat *Nashville*, prevented this threat from being put into effect; he rescued the imperiled Americans, and finally persuaded the Colombian troops to reembark and peacefully return to Colombia.

With absolute unanimity the people of the Isthmus declared themselves an independent republic, and offered immediately to conclude with our Government the treaty which Colombia had rejected, and to make its terms somewhat more favorable to the United States. No bloodshed whatever had occurred, and it could not occur unless we permitted Colombian troops to land. The Republic of Panama was the de facto Government and there was no other on the Isthmus. There were, therefore, two courses open to us. One was to turn against the people who were our friends, to abandon them, and permit the people who were our foes to reconquer Panama, with frightful bloodshed and destruction of property, and thereby to reestablish and perpetuate the anarchic despotism of the preceding 50 years—inefficient, bloody, and corrupt. The other course was to let our foes pay the penalty of their own folly and iniquity and to stand by our friends, and, as an incident, to prevent all bloodshed and disturbance on the Isthmus by simply notifying Colombia that it would not be permitted to land troops on Panama. Of course we adopted the latter alternative. To have adopted any other course would have been an act not merely of unspeakable folly but of unspeakable baseness; it would have been even more ridiculous than infamous. We recognized the Republic of Panama. Without firing a shot we prevented a civil war. We promptly negotiated a treaty under which the canal is now being dug. In consequence Panama has for eight years enjoyed a degree of peace and prosperity which it had never before enjoyed during its four centuries of troubled existence. Be it remembered that unless I had acted exactly as I did act there would now be no Panama Canal. It is folly to assert devotion to an end, and at the same time to condemn the only means by which the end can be achieved. Every man who at any stage has opposed or condemned the action actually taken in acquiring the right to dig the canal has really been the opponent of any and every effort that could ever have been made to dig the canal. Such critics are not straightforward or sincere unless they announce frankly that their criticism of methods is merely a mask and that at bottom what they are really criticising is having the canal dug at all.

The United States has done very much more than its duty to Colombia. Although Colombia had not the slightest claim to consideration of any kind, yet, in the interests of Panama, and so as to

close all possible grounds of dispute between Panama and Colombia, the United States some time ago agreed to a triparty treaty between herself, Colombia, and Panama, by which, as a simple matter of grace and not of right, adequate and generous compensation would have been given Colombia for whatever damage she had suffered; but Colombia refused to agree to the treaty. On this occasion, in my judgment, the United States went to the very verge of right and propriety in the effort to safeguard Panama's interests by making Colombia feel satisfied. There was not the slightest moral obligation on the United States to go as far as she went; and at the time it seemed to me a grave question whether it was not putting a premium upon international blackmail to go so far. Certainly nothing more should be done. There is no more reason for giving Colombia money to soothe her feelings for the loss of what she forfeited by her misconduct in Panama in 1903 than for giving Great Britain money for what she lost in 1776. Moreover, there is always danger that in such cases an act of mere grace and generosity may be misinterpreted by the very people on whose behalf it is performed, and treated as a confession of wrongdoing. We are now so far away from 1776 that this objection does not apply in that case, and there would be no particular reason why any sentimental persons who feel so inclined should not agitate to have Great Britain paid for the nervous strain and loss of property consequent upon our action in that year and the immediately subsequent years. But we are still too near the Panama incident to be entirely certain that base people would not misunderstand our taking such action in her case; and as there was literally and precisely as much moral justification for what we did in Panama in 1903 as for what we did in our own country in 1776—and, indeed, even more justification—it is as foolish now to claim that Colombia is entitled, or ever has been entitled, to one dollar because of that transaction as to claim that Great Britain is entitled to be compensated because of the Declaration of Independence.

Not only was the course followed as regards Panama right in every detail and at every point, but there could have been no variation from this course except for the worse. We not only did what was technically justifiable, but we did what was demanded by every ethical consideration, national and international. We did our duty by the world, we did our duty by the people of Panama, we did our duty by ourselves. We did harm to no one save as harm is done to a bandit by a policeman who deprives him of his chance for blackmail. The United States has many honorable chapters in its history, but no more honorable chapter than that which tells of the way in which our right to dig the Panama Canal was secured and of the manner in which the work itself has been carried out.

## EXTRACT FROM THE AUTOBIOGRAPHY OF THEODORE ROOSEVELT.

[From Theodore Roosevelt's Autobiography, published by The Macmillan Co.]

From the beginning to the end our course with Colombia was straightforward and in absolute accord with the highest standards of international morality. Criticism of it can come only from misinformation, or else from a sentimentality which represents both mental weakness and a moral twist. To have acted otherwise than I did would have been on my part betrayal of the interests of the United States, indifference to the interests of Panama, and recreancy to the interests of the world at large. Colombia had forfeited every claim to consideration; indeed, this is not stating the case strongly enough; she had so acted that yielding to her would have meant on our part that culpable form of weakness which stands on a level with wickedness. As for me personally, if I had hesitated to act, and had not in advance discounted the clamor of those Americans who have made a fetish of disloyalty to their country, I should have esteemed myself as deserving a place in Dante's *Inferno* beside the faint-hearted cleric who was guilty of "*il gran rifiuto*."

The facts show that from the beginning there had been acceptance of our right to insist on free transit, in whatever form was best, across the Isthmus, and that toward the end there had been a no less universal feeling that it was our duty to the world to provide this transit in the shape of a canal—the resolution of the Pan-American Congress was practically a mandate to this edict. Colombia was then under a one-man government, a dictatorship, founded on usurpation of absolute and irresponsible power. She eagerly pressed us to enter into an agreement with her as long as there was any chance of our going to the alternative route through Nicaragua. When she thought we were committed, she refused to fulfill the agreement, with the avowed hope of seizing the French Company's property for nothing, and thereby holding us up. This was a bit of pure bandit morality. It would have achieved its purpose had I possessed as weak moral fiber as those of my critics who announced that I ought to have confined my action to feeble scolding and tampering until the opportunity for action passed. I did not lift my finger to incite the revolutionists. The right simile to use is totally different. I simply ceased to stamp out the different revolutionary fuses that were already burning.

When Colombia committed flagrant wrong against us, I considered it no part of my duty to aid and abet her in her wrongdoing at our expense, and also at the expense of Panama, of the French company, and of the world generally. There had been 50 years of continuous bloodshed and civil strife in Panama. Because of my action, Panama has now known 10 years of such peace and prosperity as she never before saw during the four centuries of her existence—for in Panama, as in Cuba and Santo Domingo, it was the action of the American people against the outcries of the professed apostles of peace which alone brought peace. We gave the people of Panama self-government and

freed them from subjection to alien oppressors. We did our best to get Colombia to let us treat her with a more than generous justice; we exercised patience to beyond the verge of proper forbearance. When we did act and recognized Panama, Colombia at once acknowledged her guilt by promptly offering to do what we had demanded, and what she had protested it was not in her power to do. But the offer came too late.

What we would gladly have done before it had by that time become impossible for us honorably to do, for it would have necessitated our abandoning the people of Panama, our friends, and turning them over to their and our foes, who would have wreaked vengeance on them precisely because they had shown friendship to us. Colombia was solely responsible for her own humiliation; and she had not then, and has not now, one shadow of claim upon us, moral or legal; all the wrong that was done was done by her. If, as representing the American people, I had not acted precisely as I did, I would have been an unfaithful or incompetent representative; and inaction at this crisis would have meant not only indefinite delay in building the canal, but also practical admission on our part that we were not fit to play the part on the Isthmus which we had arrogated to ourselves. I acted on my own responsibility in the Panama matter. John Hay spoke of this action as follows:

The action of the President in the Panama matter is not only in the strictest accordance with the principles of justice and equity, and in line with all the best precedents of our public policy, but it was the only course he could have taken in compliance with our treaty rights and obligations.

I deeply regretted, and now deeply regret, the fact that the Colombian Government rendered it imperative for me to take the action I took; but I had no alternative, consistent with the full performance of my duty to my own people, and to the nations of mankind. I am well aware that the Colombian people have many fine traits; that there is among them a circle of high-bred men and women which would reflect honor to the social life of any country; and that there has been an intellectual and literary development within this small circle which partially atones for the stagnation and illiteracy of the mass of the people; and I also know that even the illiterate mass possess many sterling qualities. But unfortunate in international matters every nation must be judged by the action of its Government. The good people in Colombia apparently made no effort, certainly no successful effort, to cause the Government to act with reasonable good faith toward the United States; and Colombia had to take the consequences.

If Brazil, or Argentina, or Chile had been in possession of the Isthmus, doubtless the canal would have been built under the Government control of the nation thus controlling the Isthmus, with the hearty acquiescence of the United States and of all other powers. But in the actual fact the canal would not have been built at all save for the action I took. If men choose to say that it would have been better not to build it than to build it as the result of such action, their position, although foolish, is compatible with belief in their wrong-headed sincerity. But it is hypocrisy, alike odious and contemptible, for any man to say both that we ought to have built the canal and that we ought not to have acted in the way we did act.

## LETTER OF SECRETARY OF STATE HAY TO RAFAEL REYES.

DEPARTMENT OF STATE,  
*Washington, January 5, 1904.*

SIR: The Government of the United States has carefully considered the grave complaints so ably set forth in the "statement of grievances" presented on behalf of the Government and people of Colombia, with your note of the 23d ultimo.

The Government and people of the United States have ever entertained toward the Government and people of Colombia the most friendly sentiments, and it is their earnest wish and hope that the bonds of amity that unite the two peoples may forever remain unbroken. In this spirit the Government of the United States, mindful that between even the most friendly nations differences sometimes unhappily arise, has given to your representations the most deliberate and earnest attention, and in the same spirit it will employ every effort consistent with justice and with its duty to itself and to other nations not only to maintain but also to strengthen the good relations between the two countries.

At the present moment the questions which you submit can be viewed only in the light of accomplished facts. The Republic of Panama has become a member of the family of nations. Its independence has been recognized by the Governments of the United States, France, China, Austria-Hungary, Germany, Denmark, Russia, Sweden and Norway, Belgium, Nicaragua, Peru, Cuba, Great Britain, Italy, Japan, Costa Rica, and Switzerland. These solemn acts of recognition carry with them international obligations which, in peace as in war, are fixed by the law of nations and which can not be disregarded. A due appreciation of this circumstance is shown in your admission, made with a frankness and fairness honorable alike to your Government and to yourself, that "Panama has become independent—has organized a government."

The action not merely, as you observe, of a "few powers," but of all the so-called "great powers" and many of the lesser ones, in recognizing the independence of Panama, leaves no doubt as to the public opinion of the world concerning the propriety of that measure. The law of nations does not undertake to fix the precise time at which recognition shall or may be extended to a new State. This is a question to be determined by each State upon its own just sense of international rights and obligations; and it has rarely happened, where a new State has been formed and recognized within the limits of an existing State, that the parent State has not complained that the recognition was premature. And if in the present instance the powers of the world gave their recognition with unwonted promptitude, it is only because they entertained the common conviction that interests of vast importance to the whole civilized world were at stake, which would by any other course be put in peril.

The independence of the Republic of Panama being an admitted fact, the department will proceed to consider the complaints presented by you on behalf of your Government as to the manner in which that independence was established. In performing this task I desire to avoid all appearance of recrimination; and if I shall not be wholly successful in so doing, it is only because I am under the necessity of vindicating the conduct of this Government against reproaches of the most grave and unusual character. The department is in duty bound to deal with these charges in a spirit of the utmost candor; but in performing this duty it will not seek in unofficial sources material for unjust and groundless aspersions. It is greatly to be regretted that your duty to your Government could not, in your estimation, have been discharged within similar limitations.

With every disposition to advance the purpose of your mission, the department has read with surprise your repetition of gross imputations upon the conduct and motives of this Government, which are said to have appeared in "reputable American newspapers." The press in this country is entirely free, and as a necessary consequence represents substantially every phase of human activity, interest, and disposition. Not only is the course of the Government in all matters subject to daily comment, but the motives of public men are as freely discussed as their acts; and if, as sometimes happens, criticism proceeds to the point of calumny, the evil is left to work its own cure. Diplomatic representatives, however, are not supposed to seek in such sources material for arguments, much less for grave accusations. Any charge that this Government or any responsible member of it held intercourse, whether official or unofficial, with agents of revolution in Colombia is utterly without justification.

Equally so is the insinuation that any action of this Government prior to the revolution in Panama was the result of complicity with the plans of the revolutionists. The department sees fit to make these denials, and it makes them finally.

The origin of the Republic of Panama and the reasons for its independent existence may be traced in certain acts of the Government of Colombia, which are matters of official record.

It is a matter of common knowledge that the quest of a way to the westward, across the sea, from Europe to Asia, led to the discovery and settlement of the American continents. The process of colonization had, however, scarcely begun when the adventurous spirits of that age, not to be balked in their undertaking by an obstacle that seemed to be removable, began to form projects for a canal to connect the Atlantic and Pacific Oceans. As early as 1528 a proposal was laid before the Emperor Charles V for the opening of such a way across the Isthmus of Panama. From that day to the present the project has continued to occupy a place among the great enterprises yet to be accomplished. It remains unfulfilled only because the experience of 400 years has demonstrated that private effort is wholly inadequate to the purpose, and that the work must be performed, if at all, under the auspices of a government of the largest resources. There was only one such government in a position to undertake it. By a well-settled policy, in which all American nations are understood to concur, the assumption of the task by any of the great Governments of Europe was pronounced to be inadmissible. Among American Governments there

was only one that seemed to be able to assume the burden, and that was the Government of the United States.

Such was the precise situation when the United States manifested its determination to construct the great highway across the American isthmus. Its purpose was universally applauded. The circumstance that this Government possibly might, in return for the great expenditures which it was about to hazard, derive from the construction of the canal some special advantage was not thought to be a reason for opposing what was to be of such vast benefit to all mankind. The Clayton-Bulwer treaty was conceived to form an obstacle, and the British Government therefore agreed to abrogate it, the United States only promising in return to protect the canal and keep it open on equal terms to all nations, in accordance with our traditional policy. Nor were indications wanting of appreciation on the part of the American Republics. On January 22, 1902, the second Pan American conference, sitting at the City of Mexico, adopted the following resolution:

The Republics assembled at the International Conference of Mexico applaud the purpose of the United States Government to construct an interoceanic canal, and acknowledge that this work will not only be worthy of the greatness of the American people, but also in the highest sense a work of civilization and to the greatest degree beneficial to the development of commerce between the American States and the other countries of the world.

Among the delegates who signed this resolution, which was adopted without dissent, was the delegate of Colombia.

At that time the Government of the United States had not formally decided upon the route for the canal, whether by way of Panama or of Nicaragua. Owing to the lack of correct information there had long existed a strong tendency toward the latter route, but, as the result of more thorough investigations, a decided change in opinion had begun to appear. To Colombia this change was understood to be very gratifying. As early as May 15, 1897, the Colombian chargé d'affaires at Washington, speaking in the name of his Government, represented in a "friendly spirit" that any official assistance extended by the United States to the Nicaraguan Canal Co. would work serious injury to Colombia.

In a similar sense Señor Martínez Silva, then Colombian minister at this Capital, in a note of December 7, 1901, referring to a press report that the Isthmian Canal Commission had, by reason of the excessive price fixed by the Panama Canal Co., reported in favor of the Nicaraguan route, assured the department that the price was not final, and after declaring that the matter was one that affected "the interests of the Colombian Government, which is well disposed to facilitate the construction of the proposed interoceanic canal through its territory," said:

It would indeed be unfortunate if, through misunderstandings arising from the absence of timely explanations, the Government of the United States should be forced to select a route for the proposed canal which would be longer, more expensive, both in construction and maintenance, and less adapted to the commerce of the world than the short and half-finished canal available at Panama.

On June 28, 1902, the President of the United States gave his approval to the act now commonly referred to as the Spooner Act, to provide for the construction of the interoceanic canal. Following the report of the Isthmian Canal Commission, which confirmed the opinion

expressed by the Colombian Government, it embodied the formal decision of the United States in favor of the Panama route. It accordingly authorized the President to acquire, at a cost not exceeding \$40,000,000, "the rights, privileges, franchises, concessions," and other property of the New Panama Canal Co., including its interests in the Panama Railroad Co., and to obtain from Colombia on such terms as he might deem reasonable, perpetual control for the purposes of the canal of a strip of land not less than six miles wide, such control to include jurisdiction to make and, through such tribunals as might be agreed on, to enforce such police and sanitary rules and regulations as should be necessary to the preservation of order and of the public health.

The act also provided, in a clause to which your statement adverts, that, in case the President should "be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Co. and the control of the necessary territory of the Republic of Colombia," together with the "rights" mentioned in connection therewith "within a reasonable time and upon reasonable terms," he should turn to Nicaragua. But this provision, while it indicated that the construction of the canal was not wholly to depend upon the success or failure to make reasonable terms with Colombia and the canal company, by no means implied that the question of routes was a matter of indifference.

In the nature of things it could not be so. Not only was the work to endure for all time, but its prompt construction was felt to be of vast importance; and it could not be a matter of less concern to the United States than to Colombia that this Government might possibly be forced to adopt a route which would, as the Colombian minister had observed—

be longer, more expensive, both in construction and maintenance, and less adapted to the commerce of the world than the short and half-finished canal available at Panama.

Nevertheless, even if the route by Panama had been found to be the only feasible one, it would have been highly imprudent for this Government to expose itself to exorbitant demands.

It possessed, indeed, the gratifying assurance that the Colombian Government was "well disposed to facilitate the construction of the proposed interoceanic canal through its territory," and the department is pleased to add to this your present assurance that Colombia considers the canal strip "as a divine bequest for the innocent use of the American family"; but it was fully understood that, before the canal was begun, arrangements of a very substantial kind would have to be made; and it was felt that, no matter how generous the views of the Colombian Government might be, the canal company might be indisposed to act in the same liberal spirit.

The Spooner Act, in providing for the acquisition by the United States of a limited control over the canal strip, merely followed the lines of previous negotiations with Nicaragua and Costa Rica. Under any circumstances the exercise of such control could not have been considered unreasonable, but it was deemed to be altogether essential in view of the unsettled political and social conditions which had for many years prevailed, and which unhappily still continued to exist, along the canal routes, both in Nicaragua and in Panama. Its necessity was clearly recognized in the Hay-Pauncefote treaty, and it was

on all sides fully understood to form a requisite part of any plan for the construction of the canal by the United States. Neither while the Spooner Act was pending before Congress nor at any previous time was it intimated from any quarter that it would form a bar to the carrying out of the great project for which the local sovereigns of the canal routes were then such ardent competitors.

After the Spooner Act was approved, negotiations were duly initiated by Colombia. They resulted on January 22, 1903, in the conclusion of the Hay-Herran convention. By this convention every reasonable desire of the Colombian Government was believed to be gratified. Although the concession to the United States of the right to construct, operate, and protect the canal was understood to be in its nature perpetual, yet, in order that no technical objection might be raised, it was limited to a term of 100 years, renewable at the option of this Government for periods of a similar duration. The limited control desired by the United States of the canal strip for purposes of sanitation and police, not only in its own interest but also in that of Colombia and all other Governments, was duly acquired. But in order that neither this, nor any other right or privilege, granted to the United States, might give rise to misconception as to the purposes of this Government, there was inserted in the convention this explicit declaration:

The United States freely acknowledges and recognizes this sovereignty [of Colombia] and disavows any intention to impair it in any way whatever or to increase its territory at the expense of Colombia or of any of the sister Republics in Central or South America; but, on the contrary, it desires to strengthen the power of the Republics on this continent, and to promote, develop, and maintain their prosperity and independence.

This declaration was, besides, confirmed by the reaffirmation of article 35 of the treaty of 1846, as well as by the stipulations made with reference to the protection of the canal; for it was expressly provided that only in exceptional circumstances, on account of unforeseen or imminent danger to the canal, railways, or other works, or to the lives and property of the persons employed upon them, should the United States employ its armed forces without obtaining the previous consent of the Government of Colombia, and that as soon as sufficient Colombian forces should arrive for the purpose those of the United States should retire.

Moreover, in view of the great and to some extent necessarily unforeseen expenses and responsibilities to be incurred by the United States, the pecuniary compensation agreed to be made to Colombia was exceedingly liberal. Upon the exchange of the ratifications of the convention, \$10,000,000 in gold were to be paid, a sum equivalent to two-thirds of what is reputed to be the total amount of the Colombian public debt; and, in addition to this, beginning nine years after the same date, an annual payment of \$250,000 in gold was to be made, a sum equivalent to the interest on \$15,000,000 at the rate at which loans can be obtained by this Government.

Such was the convention. The department will now consider the manner in which it was dealt with.

In the "statement of grievances," to which I have now the honor to reply, a prominent place is given to the stipulation that the convention when signed should be "ratified according to the laws of the respective countries," and it is said that the course taken in Washington was not different from that at Bogota. In a narrow, technical

sense this is true, but in a broader sense no supposition could be more misleading. The convention was submitted to the Senate of the United States on the day following its signature. From first to last it was cordially supported by the administration, and on the 17th of March it was approved without amendment.

The course taken at Bogota affords a complete antithesis. The Department is not disposed to controvert the principle that treaties are not definitely binding till they are ratified; but it is also a familiar rule that treaties, except where they operate on private rights, are, unless it is otherwise provided, binding on the contracting parties from the date of their signature, and that in such case the exchange of ratifications confirms the treaty from that date. This rule necessarily implies that the two Governments, in agreeing to the treaty through their duly authorized representatives, bind themselves, pending its ratification, not only not to oppose its consummation, but also to do nothing in contravention of its terms.

We have seen that by the Spooner Act, with reference to which the convention was negotiated, the President was authorized to acquire, at a cost not to exceed \$40,000,000, "the rights, privileges, franchises, concessions," and other property of the New Panama Canal Co. It was, of course, well known to both Governments that the company under the terms of the concession of 1878 could not transfer to the United States "its rights, privileges, franchises, and concessions" without the consent of Colombia. Therefore the Government of the United States before entering upon any dealings with the New Panama Canal Co. negotiated and concluded the convention with Colombia. The first article of this convention provides:

The Government of Colombia authorizes the New Panama Canal Co. to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company.

The authorization thus given, in clear and unequivocal terms, covers expressly the "rights, privileges, \* \* \* and concessions" of the company, as well as its other property.

Some time after the convention was signed the Government of the United States learned, to its utter surprise, that the Government of Colombia was taking with the canal company the position that a further permission, in addition to that contained in the convention, was necessary to the transfer of its concessions and those of the Panama Railroad Co., respectively, to the United States, and that, as a preliminary to this permission, the companies must enter into agreements with Colombia for the cancellation of all her obligations to either of them under the concession. This proceeding seemed all the more singular in the light of the negotiations between the two Governments. The terms in which the convention authorized the New Panama Canal Co. to sell and transfer its "rights, privileges, properties, and concessions" to the United States were the same as those embodied in the original draft of a treaty presented to this Government by the Colombian minister on March 31, 1902.

No change in this particular was ever suggested by Colombia, in all the discussions that followed until November 11, 1902. On that day the Colombian minister presented a memorandum in which it was proposed that the authorization should be so modified that "the permission accorded by Colombia to the canal and the railroad companies to transfer their rights to the United States" should "be regulated by

a previous special arrangement entered into by Colombia." To this proposal this department answered that "the United States considers this suggestion wholly inadmissible." The proposition was then abandoned by Colombia, and the convention was nearly three months later signed without any modification of the absolute authorization to sell.

The notices actually sent to the companies went, however, even further than the rejected and abandoned proposal presented by the Colombian minister, since they required the companies to cancel all obligations of Colombia to them, and thus to destroy the rights, privileges, and concessions which she had by the convention solemnly authorized the canal company to sell and transfer to the United States. The whole superstructure so laboriously reared was thus threatened with destruction by the removal of one of its foundation stones.

It was against this act of the Colombian Government itself that the remonstrance made by the American minister, Mr. Beaupré, by instruction of his Government, on the 24th of April last, was presented. Great stress is laid upon this remonstrance in Colombia's "statement of grievances," as the first of a series of three diplomatic representations which, by assuming to deny to the Colombian Congress the exercise of its constitutional functions, affronted that body and led the Colombian Senate to reject the convention. Unfortunately for this supposition, the Colombian Congress was not in session. It had not then been convoked; nor did it meet until the 20th of June. The representation was made solely with a view to recall to the Colombian Government the terms of the agreement which it had itself concluded, but of which it seemed to have become oblivious. The second representation was made, as you state, on the 18th of June, two days before Congress met, but the cabled instruction under which it was made was sent by this Government on the 9th of June. The third was made on the 5th of August, while the Congress was in session. Its obvious purpose was, if possible, to exhibit the situation in its true light.

The department would here gladly end its recital of the course of the Colombian Government with what has already been exhibited, but the circumstances do not permit it to do so. As the "statement of grievances" presented on behalf of Colombia is founded upon the tacit assumption that her present plight is due solely to wrongs committed by this Government, it is necessary that the facts should be disclosed.

The violation by the Colombian Government, long before the Congress assembled, of its agreement to the sale and transfer to the United States of the rights and concessions of the canal and railway companies was not the only act by which it manifested its purpose to repudiate its own engagements. For some time after the convention was signed, its terms appeared to be as satisfactory to the people of Colombia as they seemingly had been to the Colombian Government.

This state of affairs continued until Gen. Fernandez, in charge of the ministry of finance, issued more than a month before the Congress was convoked and more than two months before it met, a circular to the Bogota press, which, as Mr. Beaupré reported, "had suddenly sprung into existence," inviting discussion of the convention. The circular in substance stated, according to Mr. Beaupré's report, that the Government "had no preconceived wishes for or against the measure"; that it was "for Congress to decide," and that Congress would be largely guided by "public opinion." In view of what the Govern-

ment had already done, it is not strange that this invitation to discussion was followed by violent attacks upon the convention, accompanied by the most extravagant speculations as to the gains which Colombia might possibly derive from its rejection. No thought whatever seems to have been taken of the incalculable benefits that would accrue to Colombia as the direct and necessary result of the construction of the canal. Only the immediate possibilities, which the resources of this Government and the situation of the canal company served to suggest, seem to have been taken into account.

It is entirely impossible [said Mr. Beaupré, writing on May 4, 1903] to convince these people that the Nicaragua route was ever seriously considered by the United States; that the negotiations concerning it had any other motive than the squeezing of an advantageous bargain out of Colombia; nor that any other than the Panama route will be selected. \* \* \* Therefore, it is contended, and generally believed, that there is no immediate necessity of confirming the Hay-Herran convention; that the negotiations can be safely prolonged, in the end securing very much better terms for Colombia. The public discussion is largely along the lines of the loss of national honor by the surrender of sovereignty; \* \* \* private discussion, which perhaps more clearly reflects the real situation, is to the effect that the price is inadequate.

That Mr. Beaupré's summary of the situation, a situation which seems logically to have followed from the Government's own measures, was correct is amply demonstrated in the sequel. The department deems it unnecessary to enter into any argument upon the question raised at Bogota as to Colombia's "sovereignty." The convention speaks for itself, and its provisions for the acknowledgment and assurance of Colombia's sovereignty have already been set forth. The explanations put forward in Colombia's "statement of grievances" merely repeat the pleas devised at the Colombian capital. The sudden discovery that the terms of the convention, as proposed and signed by the Colombian Government, involved a violation of the Colombian constitution, because it required a cession to the United States of the "sovereignty" which it expressly recognized and confirmed, could be received by this Government only with the utmost surprise. Nevertheless, the Colombian Senate unanimously rejected the convention.

This fact was communicated to the department by Dr. Herran on the 22d of August last, by means of a copy of a cablegram from his Government. In that telegram the "impairment" of Colombian "sovereignty" was mentioned as one of the "reasons advanced in debate" for the Senate's action; but joined with it there was another reason, with which the department had long been familiar, namely, the "absence" of a "previous agreement" of the companies with the Colombian Government for the transfer of their privileges. To these reasons there was added a reference to the representations made by Mr. Beaupré; but it was said to be "probable" that the Colombian Congress would "provide bases" for "reopening negotiations."

No such action, however, was taken by the Colombian Congress. On the contrary, by a report of the majority of the Panama canal committee, read in the Colombian Senate on the 14th of October last, it was recommended that a bill which had been introduced to authorize the Government to enter upon new negotiations should be "indefinitely postponed." The reason for this recommendation is disclosed in the same report. By a treaty concluded April 4, 1893, the original concession granted to the Panama Canal Co. was extended until December 31, 1904.

By a legislative act in 1900 a new extension was made till October 31, 1910; but the report, adopting a suggestion which had been put forward in the press, raises a question as to whether this legislative extension was valid, and adds that if it was not valid the aspect of the question would be entirely changed in consequence of the fact that when a year later the Colombian Congress should meet in ordinary session the extension of 1893 would have "expired and every privilege with it." In that case, the the report goes on to say, the Republic would become the "possessor and owner, without any need of a previous judicial decision and without any indemnity, of the canal itself and of the adjuncts that belong to it," and would not only be able to "contract \* \* \* without any impediments," but would be in more clear, more definite, and more advantageous possession, both legally and materially.

This program, if not expressly, was at least tacitly adopted by the Colombian Congress, which adjourned on the 31st of October without providing any bases for the reopening of negotiations. It was a scheme to which this Government could not possibly have become a party. Of this fact the Colombian Government was duly notified when the first intimation of its purpose was, long anterior to the assembling of the Congress, first disclosed. The Colombian Government was expressly informed that such action on its part, or on that of the companies, would be inconsistent with the agreements already made between the United States and the canal company with the act of June 28, 1902, under the authority of which the convention was made, and with the express terms of the convention itself. It was, under the circumstances, equivalent to a refusal of all negotiation with this Government.

Under these circumstances it was the intention of the President before further action to submit the matter to Congress, which was then soon to assemble. The situation, however, was presently changed. If the Government at Bogota, as the "statement of grievances" assures us, "fell into error" in supposing that the only consequence of its rejection of the convention would be the abandonment of the Panama route by this Government, its blindness to a situation at home that was attracting the attention of the world can only be imputed to itself. Reports of impending trouble, as the result of what was going on at Bogota, were rife.

Advices came to this Government, not only through the press but also through its own officials, of the existence of dangerous conditions on the Isthmus, as well as in the adjacent States whose interests were menaced. Disorders in that quarter were not new. In the summer of 1902, as well as in that of 1901, this Government had been obliged by its forces to maintain order on the transit route, and it took steps, as it had done on previous occasions, to perform a similar duty should the necessity arise. The form the trouble might take could not be foreseen, but it was important to guard against any destructive effects.

The reasonableness of these precautions soon became evident. The people of Panama rose against an act of the Government at Bogota that threatened their most vital interests with destruction and the interests of the whole world with grave injury. The movement assumed the form of a declaration of independence. The avowed object of this momentous step was to secure the construction of the interoceanic canal. It was inspired by the desire of the people at once

to safeguard their own interests and at the same time to assure the dedication of the Isthmus to the use for which Providence seemed to have designed it.

The situation thus suddenly created, as the direct and immediate consequence of the act of the Government at Bogota, was, as has already been observed, one that deeply concerned not only this Government but the whole civilized world; but the interests of the United States were especially implicated by reason of the treaty of 1846 with New Granada. This treaty is frequently cited in Colombia's "statement of grievances," and the United States is repeatedly charged with having violated it. But, while its terms are employed as the basis of every accusation against this Government that they can with any plausibility be made to support, its great and fundamental design, the disregard of which by Colombia produced the revolution on the Isthmus, is wholly passed over and neglected. The department is obliged to remedy this defect.

In speaking of the treaty of 1846 both Governments have in mind the thirty-fifth article, which forms in itself a special and distinctive international engagement. By this article—

the Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be free and open to the Government and citizens of the United States.

In return—

the United States guarantees positively and efficaciously to New Granada \* \* \* the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed,

and—

in consequence the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

The circumstances in which these engagements originated are matters of history. For some years exceptional efforts had been put forth to secure the construction of an interoceanic canal, and it was commonly believed that certain European Governments, and particularly that of Great Britain, were seeking to obtain control of the transit routes. That no capitalists could be found to engage in the construction of a canal without some greater security for their investments than the feeble and irregular local governments could afford was universally admitted. But, on the other hand, it was apprehended that the introduction of European monarchical interests would prove to be but the beginning of a process of colonization that would in the end be fatal to the cause of republican government.

In this predicament all eyes were turned to the United States. The first result was the conclusion of the treaty of 1846 with New Granada. Its primary object was to assure the dedication of the Isthmus to purposes of interoceanic transits, and above all to the construction of an interoceanic canal. President Polk, in submitting it to the Senate, assigned as the chief reason for its ratification that a passage through the Isthmus—

would relieve us from a long and dangerous navigation of more than 9,000 miles around Cape Horn, and render our communication with our own possession on the northwest coast of America comparatively easy and speedy.

It is true that the treaty did not require Colombia to permit such a passage to be constructed; but such an obligation was so obviously implied that it was unnecessary to express it.

Apart from the adaptation of the Isthmus to interoceanic transit, and its use for that purpose, there existed, as between the United States and New Granada, no common reason for the treaty's existence. This has always been well understood by both Governments. In a note of the Colombian chargé d'affaires at Washington, of January 3, 1899, commending the Panama enterprise to the good will of this Government, reference is made to the advantages which the United States "would derive from the Panama Canal, when studied in the light of that international agreement," the treaty of 1846. The same treaty was expressly incorporated into and perpetuated in the Hay-Herran convention. And it may be added that the Panama Canal, so far as it has progressed, was built under the protection of the same engagement.

The guaranty by the United States of the neutrality of the Isthmus, and of the sovereignty and property of New Granada thereover, was given for the conservation of precisely this purpose. To this end the United States undertook to protect the sovereign of the Isthmus from attacks by foreign powers. The powers primarily in view were those of Europe, but the treaty made no discriminations. The theory on which the "statement of grievances" proceeds, that the treaty obliged the Government of the United States to protect the Government of New Granada against domestic insurrection or its consequences, finds no support in the record, and is in its nature inadmissible.

Only a few years before the treaty was made the original Republic of Colombia was dissolved into the States of Venezuela, Ecuador, and New Granada, and since the treaty was made the Republic of New Granada has been successively transformed into the United States of Colombia and the present Republic of Colombia. With these internal changes the Government of the United States was not permitted to concern itself, so far as they did not affect its treaty rights and obligations. Indeed, it is not to be imagined that New Granada desired or that the United States would have been willing to take part in the former's internal revolutions.

That the United States has faithfully borne, during the long period since the treaty was concluded, the full burden of its responsibilities does not admit of question.

A principal object of New Granada [said Mr. Fish, in a note to the Colombian minister of May 27, 1871] in entering into the treaty is understood to have been to maintain her sovereignty over the Isthmus of Panama against any attack from abroad. That object has been fully accomplished. No such attack has taken place, though this department has reason to believe that one has upon several occasions been threatened, but has been averted by warning from this Government as to its obligations under the treaty.

In January, 1885, when Colombia appealed to the United States in the hope of averting the hostilities with which she was believed to be threatened on account of the Italian subject, Cerruti, this Government caused an intimation to be made of the serious concern which it—

could not but feel were a European power to resort to force against a sister republic of this hemisphere as to the sovereign and uninterrupted use of a part of whose territory we are guarantors, under the solemn faith of a treaty.

Such is the spirit in which the United States has on various occasions discharged its obligations.

The United States has done more than this. It has assumed and discharged, as if primarily responsible, duties which in the first instance rested on Colombia. According to the language of the treaty, the right of the Government and people of the United States to a free and open transit across the Isthmus was guaranteed by New Grenada; but the United States has been able to secure the benefits of it only by its own exertions; and in only one instance, and that as far back as 1857, has it been able to obtain from Colombia any compensation for the injuries and losses resulting from her failure to perform her obligation. The department deems it unnecessary now to enter into particulars, but is abundantly able to furnish them.

Meanwhile, the great design of the treaty of 1846 remained unfulfilled; and in the end it became apparent, as has heretofore been shown, that it could be fulfilled only by the construction of a canal by the Government of the United States. By reason of the action of the Government at Bogota in repudiating the Hay-Herran convention, and of the views and intentions disclosed in connection with that repudiation, the Government was confronted, when the revolution at Panama took place, with the alternative of either abandoning the chief benefit which it expected and was entitled to derive from the treaty of 1846, or of resorting to measures the necessity of which it could contemplate only with regret.

By the declaration of independence of the Republic of Panama a new situation was created. On the one hand stood the Government of Colombia invoking in the name of the treaty of 1846 the aid of this Government in its efforts to suppress the revolution; on the other hand stood the Republic of Panama that had come into being in order that the great design of that treaty might not be forever frustrated, but might be fulfilled. The Isthmus was threatened with desolation by another civil war; nor were the rights and interests of the United States alone at stake—the interests of the whole civilized world were involved. The Republic of Panama stood for those interests; the Government of Colombia opposed them. Compelled to choose between these two alternatives, the Government of the United States, in no wise responsible for the situation that had arisen, did not hesitate. It recognized the independence of the Republic of Panama, and upon its judgment and action in the emergency the powers of the world have set the seal of their approval.

In recognizing the independence of the Republic of Panama the United States necessarily assumed toward that Republic the obligations of the treaty of 1846. Intended, as the treaty was, to assure the protection of the sovereign of the Isthmus, whether the government of that sovereign ruled from Bogota or from Panama, the Republic of Panama, as the successor in sovereignty of Colombia, became entitled to the rights and subject to the obligations of the treaty.

The treaty was one which in its nature survived the separation of Panama from Colombia. "Treaties of alliance, of guaranty, or of commerce are not," says Hall, "binding upon a new state formed by separation"; but the new state "is saddled with local obligations, such as that to regulate the channel of a river, or to levy no more than certain dues along its course." (International Law, 4th ed., p. 98.) To the same effect it is laid down by Rivier "that treaties relating to

boundaries, to watercourses, and to ways of communication," constitute obligations which are connected with the territory and follow it through the mutations of national ownership. (*Principes du Droit des Gens*, I, 72-73.) This Government, therefore, does not perceive that, in discharging in favor of the present sovereign of the Isthmus its duties under the treaty of 1846, it is in any way violating or failing in the performance of its legal duties.

Under all the circumstances the department is unable to regard the complaints of Colombia against this Government, set forth in the "Statement of grievances," as having any valid foundation. The responsibility lies at Colombia's own door rather than at that of the United States. This Government, however, recognizes the fact that Colombia has, as she affirms, suffered an appreciable loss. This Government has no desire to increase or accentuate her misfortunes, but is willing to do all that lies in its power to ameliorate her lot. The Government of the United States, in common with the whole civilized world, shares in a sentiment of sorrow over the unfortunate conditions which have long existed in the Republic of Colombia by reason of the factional and fratricidal wars which have desolated her fields, ruined her industries, and impoverished her people.

Entertaining these feelings, the Government of the United States would gladly exercise its good offices with the Republic of Panama, with a view to bring about some arrangement on a fair and equitable basis. For the acceptance of your proposal of a resort to The Hague tribunal, this Government perceives no occasion. Indeed, the questions presented in your "Statement of grievances" are of a political nature, such as nations of even the most advanced ideas as to international arbitration have not proposed to deal with by that process. Questions of foreign policy and of the recognition or nonrecognition of foreign States are of a purely political nature, and do not fall within the domain of judicial decision; and upon these questions this Government has in the present paper defined its position.

But there may be, no doubt, other questions which may form a proper subject of negotiation; among them, for instance, the establishment of diplomatic relations between the Republics of Colombia and Panama, the delimitation of their respective boundaries, the possible apportionment of their mutual pecuniary liabilities. If the Government of Colombia will take these matters up, with any others which they think may require discussion, and will put their suggestions in regard to them in a definite and concrete form, they will receive at the hands of this Government the most careful consideration, with a view to bringing them, in the exercise of good offices, to the attention of the Government of Panama.

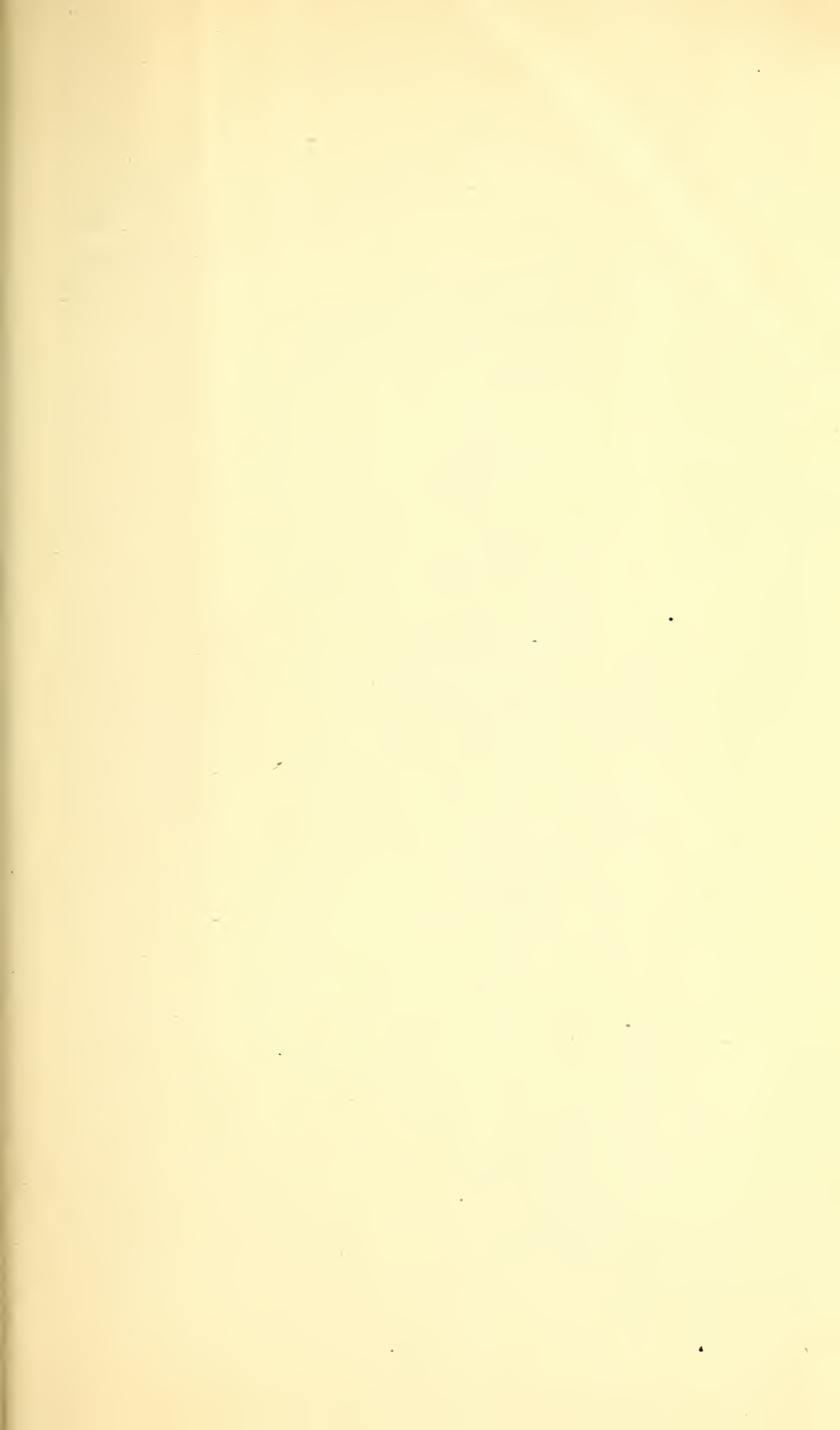
Accept, sir, the renewed assurances of my highest consideration.

JOHN HAY.

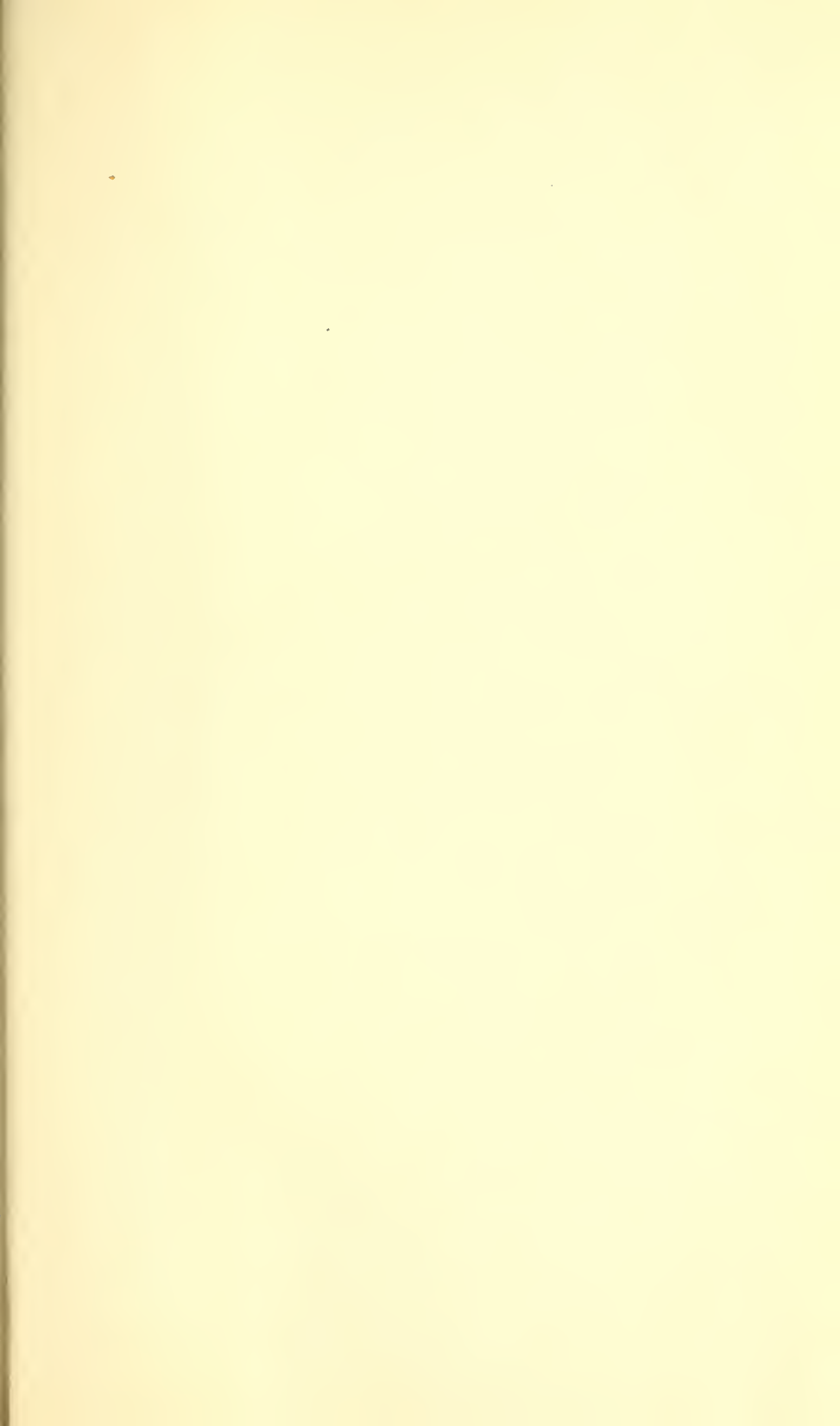








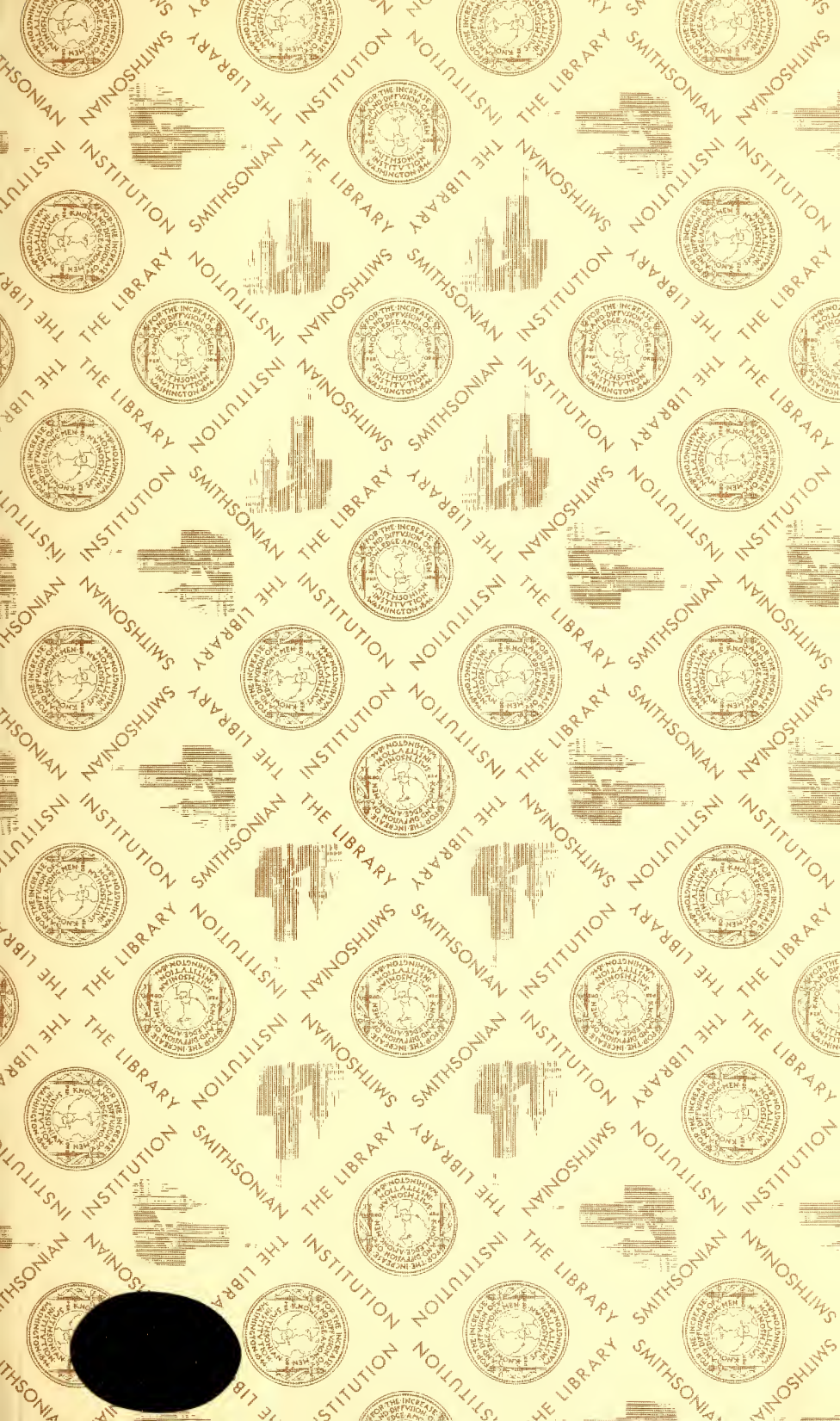












SMITHSONIAN INSTITUTION LIBRARIES



3 9088 00665 1111